PLANNING COMMISSION

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Wednesday, March 16, 2022 @ 6:00pm

The public is invited to attend this meeting in person
Attend by phone: 1-844-992-4726 Meeting Access Code: 2481 120 4116
Meeting is also streamed live on YouTube: www.youtube.com/CityOfBrainerdMN

1. Call To Order

2. Roll Call
   ___ T. Erickson ___ D. Gorham ___ M. Kallroos
   ___ T. Woodward ___ K. Yeager ___ M. Duval ___ Vacant

3. Pledge Of Allegiance

4. Approval/Amendment Of Agenda

5. Approval Of Minutes
   1. Regular Meeting Held on February 16, 2022.
   2. Workshop Held on February 23, 2022.

   Documents:

   2022-02-16 DRAFT.PDF
   2022-02-23 WORKSHOP DRAFT.PDF

6. Old Business

   6.a. Public Hearing And Recommendation For Proposed Zoning Code And Zoning Map

   Documents:

   PROPOSED ZONING CODE MAP AG REQ.PDF

7. New Business

   7.a. Interim Use Permit For Commercial Greenhouse

   Documents:

   INTERIM USE PERMIT FOR COMMERCIAL GREENHOUSE.PDF

   7.b. Interim Use Permit For Short Term Rental

   Documents:

   INTERIM USE PERMIT FOR SHORT TERM RENTAL.PDF

8. Public Forum
   Time allocated for citizens to bring matters not on the agenda to the attention of the Planning Commission - time limits may be imposed

9. Community Development Director's Report
10. Commissioner Questions/Comments
11. Adjourn

PLANNING COMMISSION
Wednesday, February 16, 2022
6:00 pm

#1 Call to Order

Planning Commission Chair Duval called the meeting of the Brainerd Planning Commission to order at 6:00 pm in the City Hall Council Chambers.

#2 Roll Call

Noted present were Commissioners Woodward, Erickson, Kallroos, Yeager, Gorham, and Duval. Also noted as present was Community Development Director Chanski.

#3 Pledge of Allegiance

Commissioner Yeager opened the meeting with the Pledge of Allegiance to the flag.

#4 Approval/Change of Agenda

MOVED AND SECONDED BY COMMISSIONERS YEAGER AND WOODWARD, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#5 Approval of Minutes

MOVED AND SECONDED BY COMMISSIONERS GORHAM AND WOODWARD, DULY CARRIED, TO APPROVE THE MINUTES FROM THE JANUARY 19, 2022 REGULAR MEETING.

#6 Old Business

6a. Supportive Housing Community – PUD Conceptual Review Resubmittal

Community Development Director Chanski explained the applicant came to the Planning Commission in January proposing a planned unit development for a supportive housing community. The Commission expressed general support of the idea, but the applicant was directed to return with a more detailed concept plan and definite site plan prior to proceeding to the Development Plan Stage. He said the topic went to the City Council on February 7th, which resulted in the failure of the motion to return with more information. However, the Council did agree that the applicant could return with a more thorough concept review plan.

The Chair recognized the applicant Vicky Kinney, who indicated that she provided more information on neighborhood harmony, density, and the time frame of each phase of the project, as well as a detailed site plan as requested.

Commissioner Yeager questioned the projected expenses for Phase One, indicating they seemed very underestimated based on current conditions in the market. He asked about the plan for maintenance of the property and the amount of money budgeted for the project. Ms. Kinney stated the estimates were provided by area contractors and maintenance would hopefully be taken care of by the residents, but a maintenance staff may be hired. She said they

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have funding secured for approximately $800,000 and the remaining amount needed would be through fundraising, grants and/or public assistance.

Commissioners asked questions of the applicant, which were answered.

The Commission gave their individual comments, which revolved around the concerns of funding and the need to have secure financing prior to the start of the project. Ms. Kinney responded that the project would not start until all funding has been received.

MOVED AND SECONDED BY COMMISSIONERS YEAGER AND ERICKSON TO RECOMMEND TO THE CITY COUNCIL A MOTION OF NON-SUPPORT OF THE PUD CONCEPT PLAN AS PRESENTED.

Members Woodward, Erickson, Kallroos, Gorham, and Yeager voted “aye”. Member Duval voted “nay”. The Chair declared the motion carried.

6b. Overview of Draft Zoning Code Document

Community Development Director Chanski provided the Commission with copies of the draft zoning code. He indicated the open house and workshop is taking place Wednesday, February 23rd at the Fire Department, but wanted Commissioners to review the draft ahead of time. He conducted a brief review of each section of the draft and highlighted some areas where significant changes were made. The Commission was directed to make note of any questions or comments for discussion at the workshop.

Commissioner Duval suggested providing the Commission a list of the items that need further attention after the code is adopted. Some of these sections could be Manufactured Housing, Outdoor Lighting, Adult Uses, Signs, and Off-Street Parking.

#7 New Business

None

#8 Public Forum

The Chair opened the public forum at 7:13 p.m.

No one came forward.

The Chair closed the public forum at 7:13 p.m.

#9 Community Development Director’s Report

Community Development Director Chanski gave the following updates:

- The EDA (Economic Development Authority) has contracted with Swanson Haskamp to work on economic development and marketing in 2022.
- The Parking Commission has issued their recommendations to the City Council at the February 22nd meeting. There is a request to change the committee from an ADHOC committee to a standing committee.

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#10 Commissioner's Questions/Comments

Commissioner Yeager announced the Mississippi Trailhead Landing Plan and Design is nearing completion and encourages everyone to check it out. Community Development Director Chanski indicated the project will go out for bid sometime in March.

#11 Adjourned at p.m.

MOVED AND SECONDED BY COMMISSIONERS YEAGER AND GORHAM, DULY CARRIED, TO ADJORN TO THE PLANNING COMMISSION OPEN HOUSE AT 4:00 P.M.ON WEDNESDAY, FEBRUARY 23, 2022 IN THE FIRE DEPARTMENT TRAINING ROOM.

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Michael Duval, Planning Commission Chair

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PLANNING COMMISSION WORKSHOP
Wednesday, February 23, 2022
6:00 p.m.

#1 Call to Order

Planning Commission Chair Duval called the Planning Commission Workshop to order at 6:00 p.m. in the Fire Department training room.

#2 Roll Call

Noted present were Commissioners Yeager, Woodward, Erickson, Gorham, and Duval. Commissioner Kallroos was noted as absent. Community Development Director Chanski, and Assistant Planner Kramvik along with Jennifer Haskamp, and Michael Lamb from Swanson Haskamp Consulting were also noted as present. City Council member Bevans attended the meeting until 7:00 pm.

#3 Review of the Proposed Zoning Code Draft

Community Development Director Chanski indicated he and Assistant Planner Kramvik worked through each section of the draft code and will discuss each section with the Commission. He encourages input and suggestions as review takes place tonight.

Jennifer Haskamp started off stating that the Zoning Districts will be the first section in the code to make it easier to navigate. She said the Table of Uses will now become Appendix A, so all uses are in one place. She indicated that the definitions are not provided in this draft but will be sent out shortly. She proceeded to give a brief review of each section and the following are some of the highlights discussed.

- Zoning Districts 515-2-1 through 515-2-21: Underwent a full rewrite
    - Density is assigned within each district and corresponds with the Comprehensive Plan
    - Public/Semi Public (PSP) – Community gathering places. Some examples are: the hospital, college, high school. Pertains to the character/use of the property
    - Park (P) – Publicly owned land. In our current code, parks are included with the zoning district where they are located and does not allow consistency of design standards among the parks.
    - Traditional Neighborhood (TN-3) – No property will be zoned TN-3 initially. This district will be assigned to properties as developers initiate and negotiate projects, and a rezoning will take place.
    - Height restrictions – cannot exceed 35’ in all districts except Main Street and Town Central (45’) – other heights may be allowed by CUP. Discussed setbacks when increasing heights.
    - General Commercial Accessory Structure – 500 SF maximum size, but may allow greater size by CUP/Variance

- Allowed Uses 515-3-1 through 515-3-16: Created a new table and modifications to sections

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- Some of the conditions in the Table of Uses are missing; David will compile a list and send to Jennifer
- Home Business – Removed Extended Home Business; process is simplified and can be approved by an Administrative Permit.(Administrative Permit application form will be created)
- Outdoor Storage and Recreational Vehicles – are now in separate categories. Screening standards for outdoor storage are defined in the Landscaping section.
- Warming Shelters – add the word *"Warming"* to Shelters in the Table of Uses.

- General Building, Development, and Design Standards 515-4-1 through 515-4-13: Updated and revised

  - Building Design Standards – added *"minimum of 25% of the primary façade abutting the ROW"* to single family residential.
  - Exterior Building Materials – revised the standards to read *"Building additions that increase the size of a building by more than 50 percent, or any modification to the street facing façade of the building that alters the front setback, or character shall be required to conform to the standards of this ordinance."*
  - Landscaping – significant changes to the section. Discussion on the term *"adjacent"*, which will be specified in definitions as *"properties immediately touching or separated by ROW."*
    - H. Installation and Maintenance – remove from #3: *"Landscape area shall be elevated above the pavement to a height that is adequate to protect the plants from snow removal, salt, and other hazards."*
  - Off-Street Parking – general commercial properties are currently exempt from requirements. This section to be discussed in more depth at a later date.
  - Fences – revisions shown were discussed and agreed upon.

- Rules and Administration 515-5-1 through 515-5-11: Reorganized, with significant changes to PUD section.

  - Starts with the Base Zoning District as the standard, with the PUD as the Overlay District.

- Rules and Definitions 515-6: Statement about other sections of code remain valid and have been relocated.

Community Development Director Chanski announced next steps:

- Public hearing will be held at the March 16th Planning Commission meeting
- City Council will conduct the first reading of the ordinance at the March 21st meeting
- City Council will conduct the second reading of the ordinance at the April 4th meeting

#4 <u>Adjourned at 8:45 pm.</u>

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Michael Duval, Planning Commission Chair

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M E M O

TO: Planning Commission

FROM: David Chanski, Community Development Director

DATE: March 11, 2022

RE: Public Hearing and Recommendation for Proposed Zoning Code and Map

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After 15 months of dedicated work, the final draft of the proposed zoning code is complete and ready to be considered for adoption. Per Minnesota State Statute and the City of Brainerd City Code, a public hearing must be conducted prior to the amendment of any City ordinance. As it is the Zoning Code and Zoning Map that are being amended, the public hearing shall be conducted by the Planning Commission. Once the public hearing has been conducted, the Planning Commission may consider recommending adoption of the proposed zoning code to the City Council.

The Notice of Hearing for the public hearing on the proposed zoning code is attached and was published on Sunday, March 6. Prior to the public hearing being held, Community Development Director Chanski and Jennifer Haskamp with Swanson Haskamp Consulting will provide a brief presentation, summarizing all the work that has been done and the primary changes proposed to the Zoning Code.

The final drafts of the proposed zoning code and zoning map are attached.

Staff recommends conducting the public hearing on the proposed zoning code and then voting to recommend adoption of the proposed zoning code to the City Council.

NOTICE OF HEARING

The City of Brainerd Planning Commission will be conducting a public hearing to consider the adoption of a revised and updated Zoning Code and Zoning Map. The revised Zoning Code and Map include new and modified zoning districts, specific use standards, and building and site design standards.

A Public Hearing will be conducted by the Planning Commission at 6:00 p.m. Wednesday, March 16, 2022, in City Hall Council Chambers, 501 Laurel Street, Brainerd.

The public is invited to attend the hearing to offer input regarding the proposed Zoning Code and Map. Any individual needing special accommodations please call (218) 828-2307.

Dated this 2nd day of March 2022

Publication Date: March 6, 2022

David C. Chanski, MPA
Community Development Director

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515-1-1 Title and Application.

This Chapter shall be known, cited and referred to as the "Brainerd Zoning Ordinance" except as referred to herein, where it shall be known as "this Ordinance."

515-1-2 Intent and Purpose.

A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.

B. This Ordinance shall divide the City into Base Zoning Districts and Overlay Districts that establish regulations for location, erection, construction, reconstruction, alteration and use of structures and land.

C. Protect neighborhoods.

D. Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.

E. Provide adequate light, air, and convenience of access to property.

F. Prevent congestion in the public rights-of-way.

G. Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.

H. Protect and preserve the natural environment of the City.

I. Encourage the protection of historic and aesthetic resources in the City.

J. Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.

K. Provide for compatibility of different land uses.

L. Provide for administration of this Ordinance.

M. Establish penalties for violation of this Ordinance.

N. To define powers and duties of the Zoning Administrator, City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to this Ordinance.

515-1-3 Relationship to Comprehensive Plan. It is the policy of the City of Brainerd that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the Comprehensive Plan, as developed and amended from time to time by the City Council of the City. The City Council recognizes the Comprehensive Plan as the policy guide for responsible regulation of land use and development in accordance with the policies and purpose herein set forth.

515-1-4 Minimum Requirements.

A. In the interpretation of the City, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare of the community.

B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

515-1-5 Conformance with this Ordinance.

A. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered; and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Ordinance.

B. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.

515-1-6 Separability. It is hereby declared to be the intention that the provisions of this Ordinance which are separable in accordance with the following:

A. If any court of competent jurisdiction shall judge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.

B. If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

515-1-7 Authority.

This Chapter ("Ordinance") is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, and Sections 462.351 to 462.363.

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515-2 ZONING DISTRICTS

515-2-1 Summary. This Section establishes the Zoning Districts and their corresponding dimensional standards and regulations in the City. All parcels within the City are zoned with a Base Zoning District and may also be zoned within an Overlay District. The Special Districts are assigned to a specific project or Character Area and must relate to the Base District Zoning.

515-2-2 Zoning Districts Established.

A. **Table of Established Base, Overlay and Special Zoning Districts.** The following table is provided to summarize and identify the Zoning Districts in the City. The table is organized by Character Area which describes the dominant development pattern and use of the area. The following Character Areas are established: Agricultural and Rural, Contemporary Residential, Traditional Neighborhood, Downtown, Commercial and Industrial, and Special Districts. The Overlay Districts and Special Districts may be present in any of the Character Areas.

Table 515-2-1.1. Zoning Districts, District Type and Character Areas.

District Type	Zoning District	Abbreviation
Base	**Character Area: Agricultural and Rural Districts**	
	Rural Living 1	RL-1
	Rural Living 2	RL-2
	Garden Living	GL
Base	**Character Area: Contemporary Residential Districts**	
	Contemporary Neighborhood 1	CN-1
	Contemporary Neighborhood 2	CN-2
Base	**Character Area: Traditional Neighborhood Districts**	
	Traditional Neighborhood 1	TN-1
	Traditional Neighborhood 2	TN-2
	Traditional Neighborhood 3	TN-3
Base	**Character Area: Downtown Districts**	
	Town Center	TC
	Main Street	MS
Base	**Character Area: Commercial and Industrial Districts**	
	General Commercial	GC
	Commercial Corridor	CC
	Makers + Employment	ME
	General Industrial	GI
Base	**Character Area: Public Uses**	
	Park	P
	Public Semi Public	PSP
Overlay	**PUD or Overlay Districts**	Overlay
	Manufactured Home Overlay District	MH-O
	Planned Unit Development	PUD

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515-2-3 Base Zoning Districts

A. **Assigned Base Zoning Districts**. All parcels, lots and land within the City are zoned with a Base District designation. The Base Districts establish and assign dimensional standards for all lots, improvements, subdivisions and other uses as described and regulated within this Ordinance. A parcel of land, development or contiguous area may be subject to an Overlay District which may assign additional dimensional standards and rules as described in other applicable Sections or Chapters of the City Code.

Table 515-2-3.1. Summary of Dimensional Standards for Base Districts.

Zoning District	Rural Living		Garden Living	Contemporary Neighborhood		Traditional Neighborhood			Town Center	Main Street	General Commercial	Commercial Corridor	Makers + Employment	General Industrial	Public Semi-Public
Abbreviations	**RL-1**	**RL-2**	**GL**	**CN-1**	**CN-2**	**TN-1**	**TN-2**	**TN-3**	**TC**	**MS**	**GC**	**CC**	**ME**	**GI**	**PSP**
Density (DU/AC)	4 DU/ 40 AC	Max. 1 DU/AC	2 DU/AC to 1 DU/AC	3-5 DU/AC	4-12 DU/AC	4-9 DU/AC	9-20 DU/AC	9-20 DU/AC up to 45	20+ DU/AC	20 + DU/AC	NA	NA	NA	NA	NA
Lot Size (New Lot)	2.0 Min.	32,670 SF	15,000-43,560 SF	10,000-21,780 SF	Up to 15,000 SF	5,000-7,500 SF	4,000 SF Min.	20 AC (new)	NA	NA	15,000	None	12,000	24,000	1.0 AC
Frontage on Public Street	300' Min.	150'	80' Min.	75' – 90'	65' – 80'	50' – 60'	45' Min.	Per Regulating Plan	Required	Required	100'	Required	80'	100'	NA
Lot Coverage (Maximum)	25%	25%	25%	50%	60%	60%	75%	Per Regulating Plan	100%	100% (80% Live/Work)	90%	90%	100%	100%	90%
Principal Building Height (Maximum)	35'	35'	35'	35'	35'	35'	35'	Per Regulating Plan	45'	45'	35'	35'	35'	35'	35'

B. **Base Zoning District Exceptions and Considerations**. The following exceptions and considerations are provided for all Base Zoning Districts. Dimensional Standards specific to Base Zoning Districts are provided in Sections [515-2-4 through 515-2-18] of this Ordinance.

C. **Base Zoning District Standards for Utility Services (Water and Sewer)**. The dimensional standards for each lot or parcel are determined by the type of utility service present or available. The following standards shall apply:

1. Buildable Area. The minimum Buildable Area for lots or parcels not served by water and sewer shall have a minimum of 0.75 acres of contiguous land outside all required setbacks.
2. There is no minimum Buildable Area if municipal or public water and sewer is available, and the lot or parcel is served by the municipal system. The Building Area shall be deemed all area within a lot outside required yard setbacks.

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515-2-4 Rural Living Zoning Districts (RL-1 and RL-2)

A. **Purpose of Rural Living Zoning Districts.** The RL Districts are intended for areas where Urban Services are not presently available. Lands zoned RL-1 do not currently have Urban Services, but future subdivision may occur when the expansion of Urban Services is economical. Lands zoned RL-2 are served by private well and septic and there are no plans for future expansion of Urban Services to the property.

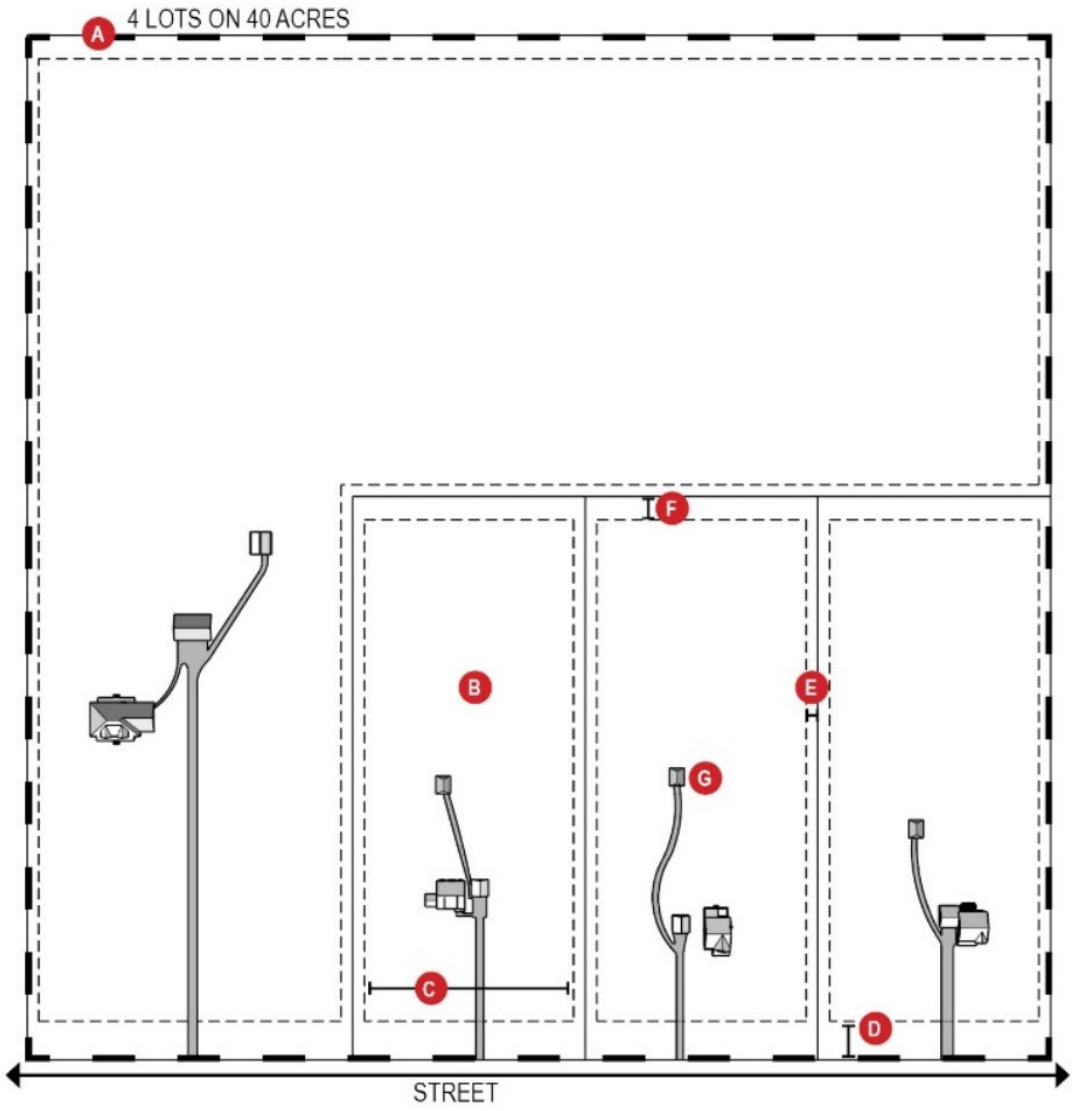
B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **RL-1 and RL-2 Zoning District Dimensional Standards.** Table 515-2-4.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-4.1. RL-1 and RL-2 Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions			
		RL-1	**RL-2**
A	Lot Size (minimum) Density (maximum)	1 Acre 4 DU/40 Acre	0.75 Acre 1 DU/1 Acre
B	Buildable Area (minimum)	0.75 Acre	.75 Acre
C	Lot Frontage on All Roads (minimum)	150’	150’
Principal Building & Attached Accessory Building Standards			
D	Front Yard Setback (minimum)	50’	
E	Side Yard Setback (minimum)	15’	
F	Rear Yard Setback (minimum)	30’	
	Accessory Building SF, attached	Counts towards Total Allowable SF	
	Accessory Building Number, attached	Does not count towards Permitted Number	
Accessory Building Standards			
G	Location, detached	Behind Principal Building	
	Side Yard Setback / Ag Use, detached (minimum)	15’/100’	
	Rear Yard Setback / Ag Use, detached (minimum)	30’/100’	
	Total Allowable Accessory Building SF/ Ag Use	4,000 SF or 10% whichever is less/unlimited Ag Use	
	Total Number of Permitted Accessory Buildings/Ag Use	3/up to 2 Additional for Ag Use	
	▪ Exception if no Attached Accessory Building is present, total Number Permitted	4	
	Accessory Dwelling Unit (ADU) (attached or detached)	Permitted	
	▪ Maximum size of ADU (attached or detached)	650 SF	
Coverage and Height Standards			
	Impervious Surface Coverage (maximum)	25%	
	Principal structure height/accessory (maximum) See Section [515-4-3]	35’	
	Accessory structure height (maximum)	Up to 35’ but may not exceed height of principal structure	
	Ag Accessory structure height (maximum)	No limit	

Figure 515-2-4.1. RL-1 Density and Lot Dimensional Standards Diagram.



515-2-5 Garden Living Zoning District (GL)

A. **Purpose of Garden Living Zoning District**. The GL Zoning District is intended for areas where Urban Services are available, and lots and parcels are served by public water, sewer, stormwater, streets and other public infrastructure. Lands zoned Garden Living are predominantly developed with single-family detached buildings and supporting accessory uses.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **GL Zoning District Dimensional Standards.** Table 515-2-5.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-5.1. GL Dimensional Standards – Density, Lot Size, Coverage and Height Standards.

Lot Dimensions		
A	Lot Size (range) Density (range)	15,000 SF – 43,560 SF (1 Acre) 2 DU/Acre – 1 DU/Acre
B	Buildable Area	Area outside of all yard setbacks, and outside OHWL or Shoreland Setback for Riparian Lot
C	Lot Frontage on All Roads (minimum) Lot Frontage on cul-de-sac (minimum)	80' 45'
Principal Building & Attached Accessory Building Standards		
D	Front Yard Setback (minimum)	50'
E	Side Yard Setback (minimum)	15'
F	Rear Yard Setback (minimum)	30'
	Accessory Building SF, attached	Counts towards Total Allowable SF
	Accessory Building Number, attached	Does not count towards Permitted Number
Accessory Building Standards		
G	Location, detached	Riparian – Permitted in Front of Principal Building must be setback a minimum of 25' Non-Riparian – Behind Principal Building
H	Side Yard Setback, detached	10'
I	Rear Yard Setback, detached	20'/or if Riparian Shoreland Overlay Standards Apply
	Total Allowable Accessory Building SF	1,500 SF or 5%, whichever is greater
	Total Number of Permitted Accessory Buildings	3
	▪ Exception if no Attached Accessory Building is present, Number Permitted	4
	Accessory Dwelling Unit (ADU), attached or detached	Permitted
	▪ Maximum size of ADU (attached or detached)	650 SF
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	35%
	Principal structure height (maximum) See Section [515-4-3]	35'
	Accessory structure height (maximum)	Up to 35' but may not exceed height of principal structure

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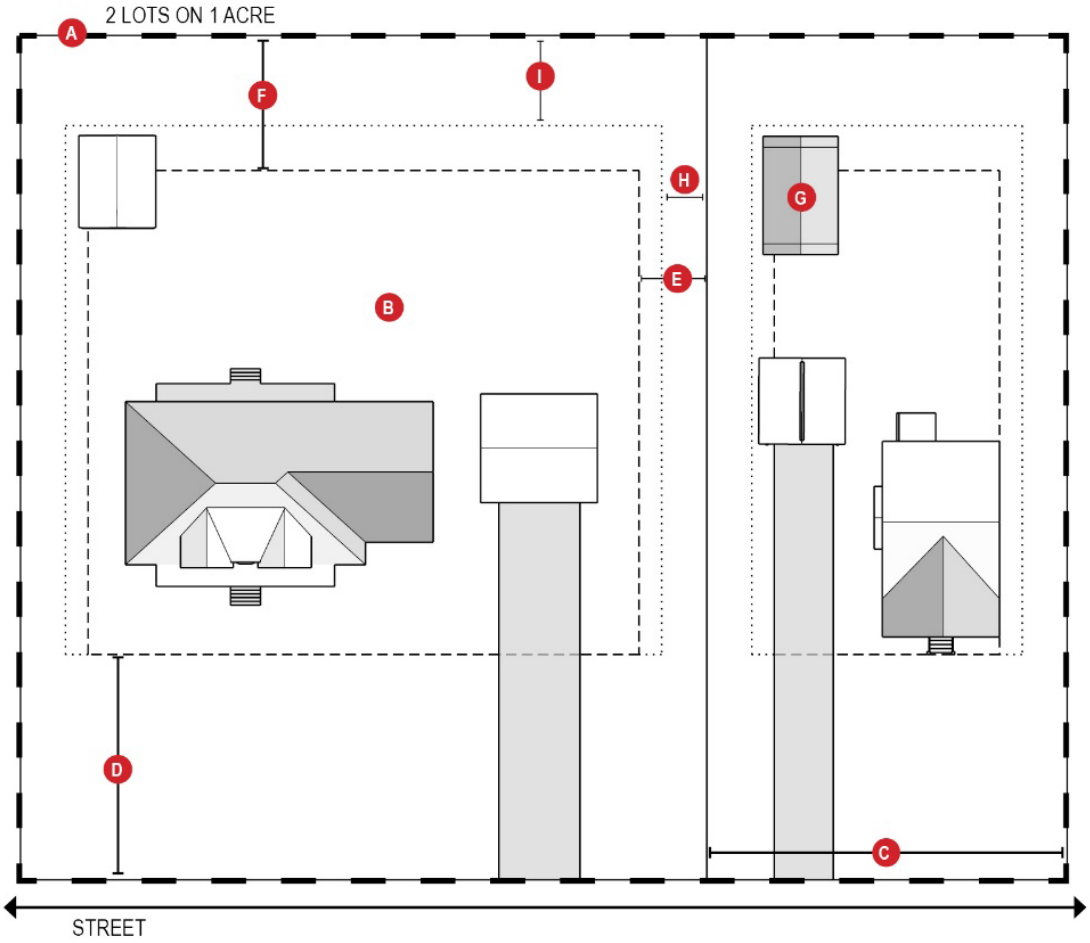
Figure 515-2-5.1. GL Density and Lot Dimensional Standards Diagram



515-2-6 Contemporary Neighborhood 1 (CN-1)

A. **Purpose of Contemporary Neighborhood 1 Zoning District**. The purpose of the CN-1 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Lots in this District are typically developed with front-loaded garages, with larger private yard spaces. The lots are wider with principal structures setback and connected to public right-of-way with a private driveway.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **CN-1 Zoning District Dimensional Standards.** Table 515-2-6.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-6.1. CN-1 Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Size (range) Density (range)	10,000 SF – 21,780 SF 3 – 5 DU/AC
B	Buildable Area (minimum)	Outside all setbacks
C	Lot Frontage on All Roads (range)	75'-90'
Principal Building & Attached Accessory Building Standards		
D	Front Yard Setback (minimum)	30'
E	Side Yard Setback (minimum)	10'/20' corner
F	Rear Yard Setback (minimum)	30'
	Accessory Building SF, attached	Counts towards Total Allowable SF
	Accessory Building Number, attached	Does not count towards Permitted Number
Accessory Building Standards		
G	Location	Behind principal building
H	Side Yard Setback (minimum)	5' /10' corner
I	Rear Yard Setback (minimum)	5'
	Total Allowable Accessory Building SF	1,500 SF or 10%, whichever is greater
	Total Number of Permitted Accessory Buildings	2
	▪ Exception if no Attached Accessory Building is present, total Number Permitted	3
	Accessory Dwelling Unit (ADU)	Permitted on Corner lot, by CUP on interior lot
	▪ Size of ADU (maximum)	650 SF
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	50%
	Principal structure height (maximum) (See Section 515-4-3)	35'
	Accessory structure height (maximum)	Up to 35' but may not exceed height of principal structure
Other Standards		
J	Driveway	Width at ROW maximum is 18'
K	Garage	Must be setback behind façade of principal structure a minimum of 5'
	Sidewalk/Trail Standards	See Subdivision Ordinance Chapter 500

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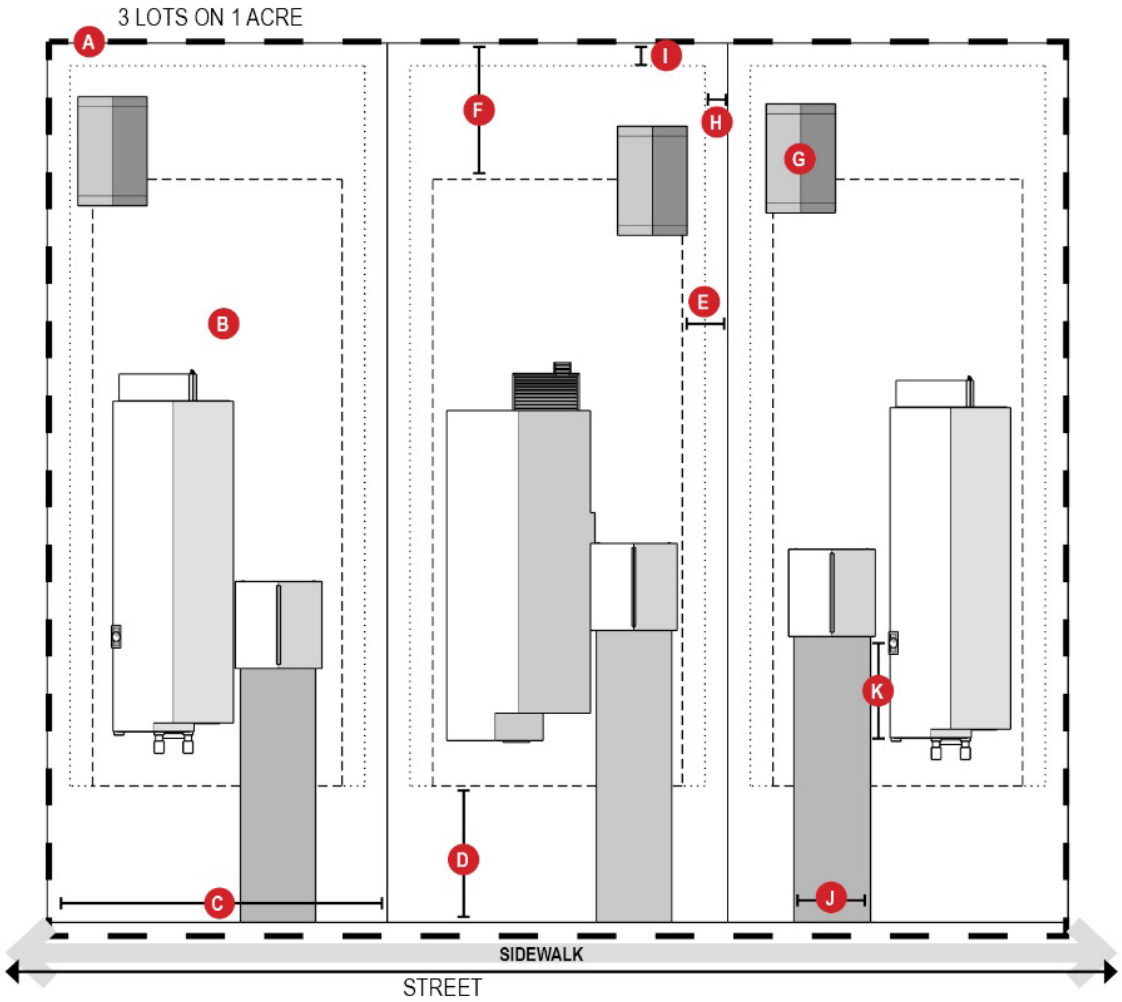
Figure 515-2-6.1. CN-1 Density and Lot Dimensional Standards Diagram



515-2-7 Contemporary Neighborhood 2 (CN-2)

A. **Purpose of Contemporary Neighborhood 2 Zoning District**. The CN-2 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Some single-family attached and multi-family uses may be present woven throughout this District. Lots in this District are typically developed with front-loaded garages and principal structures setback and connected to public right-of-way with a private driveway.

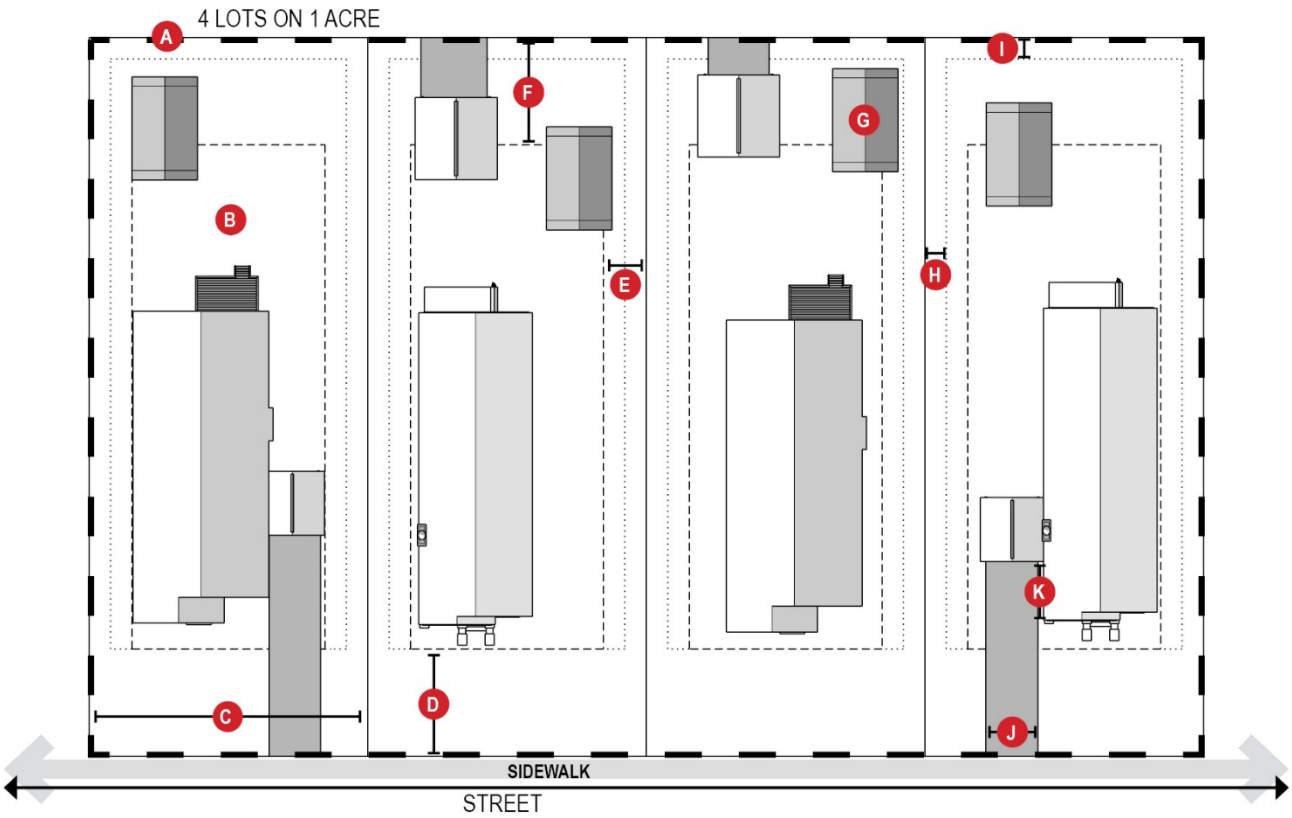
B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **CN-2 Zoning District Dimensional Standards.** Table 515-2-7.1 identifies the Dimensional Standards for Principal and Accessory structures.

Table 515-2-7.1. CN-2 Zoning District Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Size (maximum) Density (range)	Up to 15,000 SF 4 – 12 DU/AC
B	Buildable Area (minimum)	Outside all setbacks
C	Lot Frontage on All Roads (range)	65' – 80' maximum
Principal Building & Attached Accessory Building Standards		
D	Front Yard Setback (minimum)	25'
E	Side Yard Setback (minimum)	10'/20' corner
F	Rear Yard Setback (minimum)	25'
	Accessory Building SF, attached	Counts towards Total Allowable SF
	Accessory Building Number, attached	Does not count towards Permitted Number
Accessory Building Standards		
G	Location, detached	Behind Principal Building
H	Side Yard Setback, detached (minimum)	5'/10' Corner
I	Rear Yard Setback, detached (minimum)	5'
	Total Allowable Accessory Building SF	750 SF or 10%, whichever is greater
	Total Number of Permitted Accessory Buildings	2
	▪ Exception if no Attached Accessory Building is present, total Number Permitted	3
	Accessory Dwelling Unit (ADU), attached or detached	Permitted on Corner lot, by CUP on interior lot
	▪ Size of ADU, attached or detached (maximum)	650 SF
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	60%
	Principal structure height (maximum) See Section 515-4-3	35'
	Accessory structure height	Up to 35' but may not exceed height of principal structure
Other Standards		
J	Driveway	If front loaded, Width at ROW maximum is 18'
K	Garage	Must be setback behind façade of principal structure a minimum of 5'
	Sidewalk/Trail Standards	See Subdivision Ordinance Chapter 500

Figure 515-2-7.1. CN-2 Density and Lot Dimensional Standards Diagram



515-2-8 Traditional Neighborhood 1 (TN-1)

A. **Purpose of Traditional Neighborhood 1 Zoning District**. The TN-1 Zoning District is intended to provide for a compact, pedestrian-oriented mix of residential uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports future development or redevelopment that is consistent with this pattern.

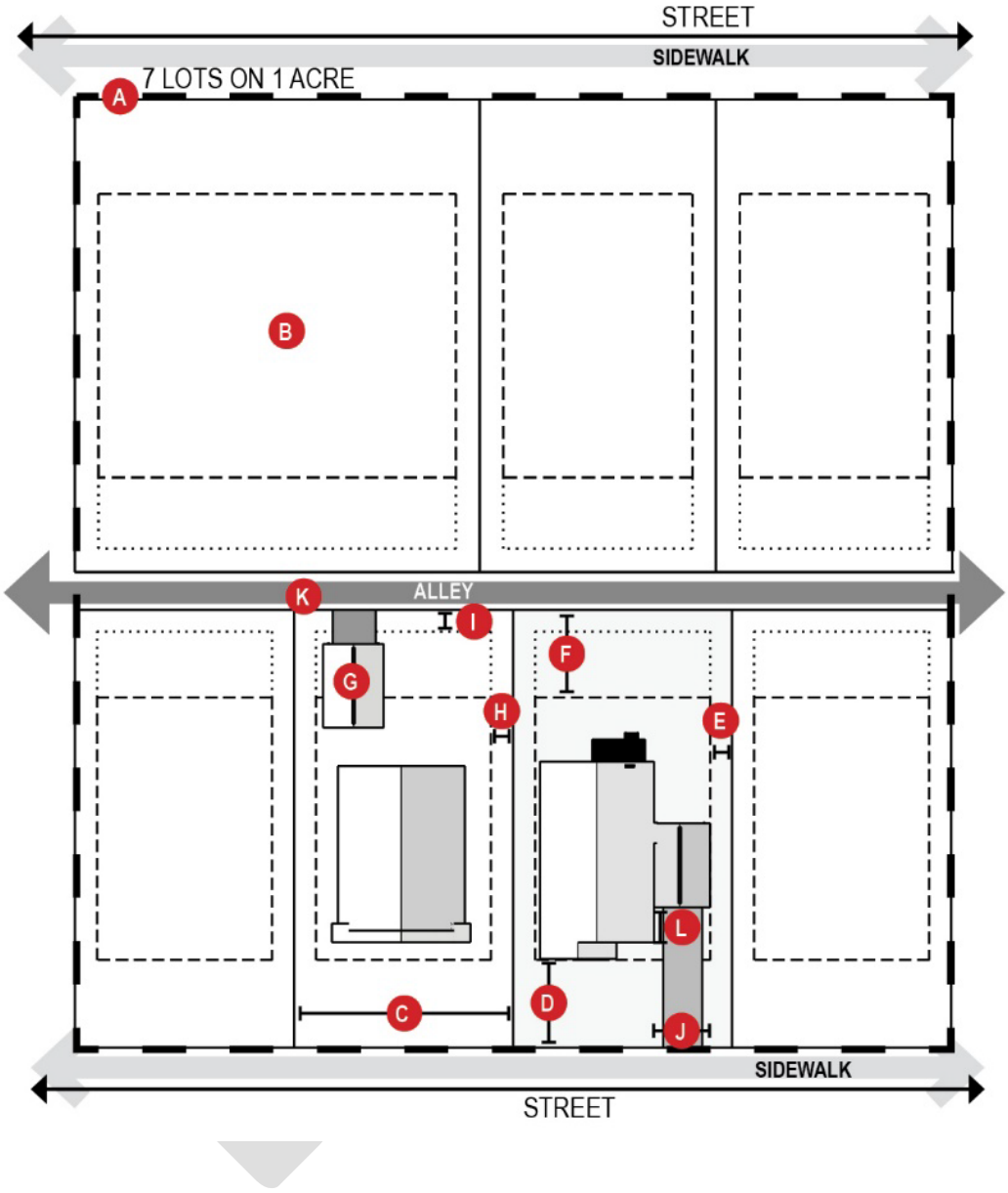
B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **TN-1 Zoning District Dimensional Standards.** Table 515-2-8.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-8.1. TN-1 Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Size (range) Density (range)	5,000-7,500 SF 4-9 DU/AC
B	Buildable Area (minimum)	Outside all setbacks
C	Lot Frontage on All Roads (range)	50 – 60’
Principal Building & Attached Accessory Building Standards		
D	Front Yard Setback (range)	20’ minimum/30’ maximum (non riparian) If Riparian, minimum setback is average of setback of adjacent principal structures
E	Side Yard Setback (minimum)	5’/15’ corner
F	Rear Yard Setback (minimum)	20’
	Accessory Building SF, attached	Counts towards Total Allowable SF
	Accessory Building Number, attached	Does not count towards Permitted Number
Accessory Building Standards		
G	Location, detached	Behind Principal Building
H	Side Yard Setback, detached (minimum)	5’/10’ corner
I	Rear Yard Setback, detached (minimum)	5’
	Total Allowable Accessory Building SF	750 SF or 10%, whichever is greater
	Total Number of Permitted Accessory Buildings	2
	▪ Exception if no Attached Accessory Building is present, total Number Permitted	3
	Accessory Dwelling Unit (ADU), attached or detached	Permitted on Corner lot; CUP for interior lots
	▪ Size of ADU, attached or detached (maximum)	650 SF
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	60%
	Principal structure height (maximum) See Section 515-4-3	35’
	Accessory structure height (maximum)	Up to 35’ but may not exceed height of principal structure
Other Standards		
J	Driveway	If front loaded, Width at ROW maximum is 18’
K	Alley	If present, access and garage/parking is required
L	Garage	If front loaded, must be setback behind façade of principal structure a minimum of 5’
	Sidewalk/Trail Standards	See Subdivision Ordinance Chapter 500

Figure 515-2-8.1. TN-1 Density and Lot Dimensional Standards Diagram



515-2-9 Traditional Neighborhood 2 (TN-2)

A. **Purpose of Traditional Neighborhood 2 Zoning District**. The TN-2 Zoning District is intended to provide for compact, pedestrian-oriented mix of residential and neighborhood-serving commercial uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports development and redevelopment consistent with this pattern.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **TN-2 Zoning District Dimensional Standards.** Table 515-2-9.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-9.1. TN-2 Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Size (minimum) Density (range)	4,000 SF 9 – 20 DU/AC (20+ DU/AC requires CUP)
B	Buildable Area Floor Area Ratio (FAR) for commercial use	Outside of all setbacks 0.5
C	Lot Frontage on All Roads (minimum)	45’
Principal Building & Attached Accessory Building Standards		
D	Front Yard Setback (minimum)	0’ - 20’ if Commercial is Principal Use, 5’ – 20’ if Residential is Principal Use
E	Side Yard Setback (minimum)	5’/10’ corner
F	Rear Yard Setback (minimum)	10’
	Accessory Building SF, attached	Counts towards Total Allowable SF
	Accessory Building Number, attached	Does not count towards Permitted Number
Accessory Building Standards		
G	Location, detached	behind Principal Building
H	Side Yard Setback, detached (minimum)	5’/10’
I	Rear Yard Setback, detached (minimum)	5’
	Total Allowable Accessory Building SF	750 SF or 10%, whichever is greater
	Total Number of Permitted Accessory Buildings	2
	▪ Exception if no Attached Accessory Building is present, total Number Permitted	3
	Accessory Dwelling Unit (ADU), attached or detached	Permitted on Corner lot, by CUP on interior lot
	▪ Size of ADU, attached or detached (maximum)	650 SF
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	75%
	Principal structure height (maximum) See Section 515-4-3	35’
	Accessory structure height	Up to 35’ but may not exceed height of principal structure
Other Standards		
J	Driveway	If front loaded, Width at ROW maximum is 18’
K	Alley	If present, access and garage/parking is required
L	Garage	If front loaded, must be setback behind façade of principal structure a minimum of 5’
	Sidewalk/Trail Standards	See Subdivision Ordinance Chapter 500

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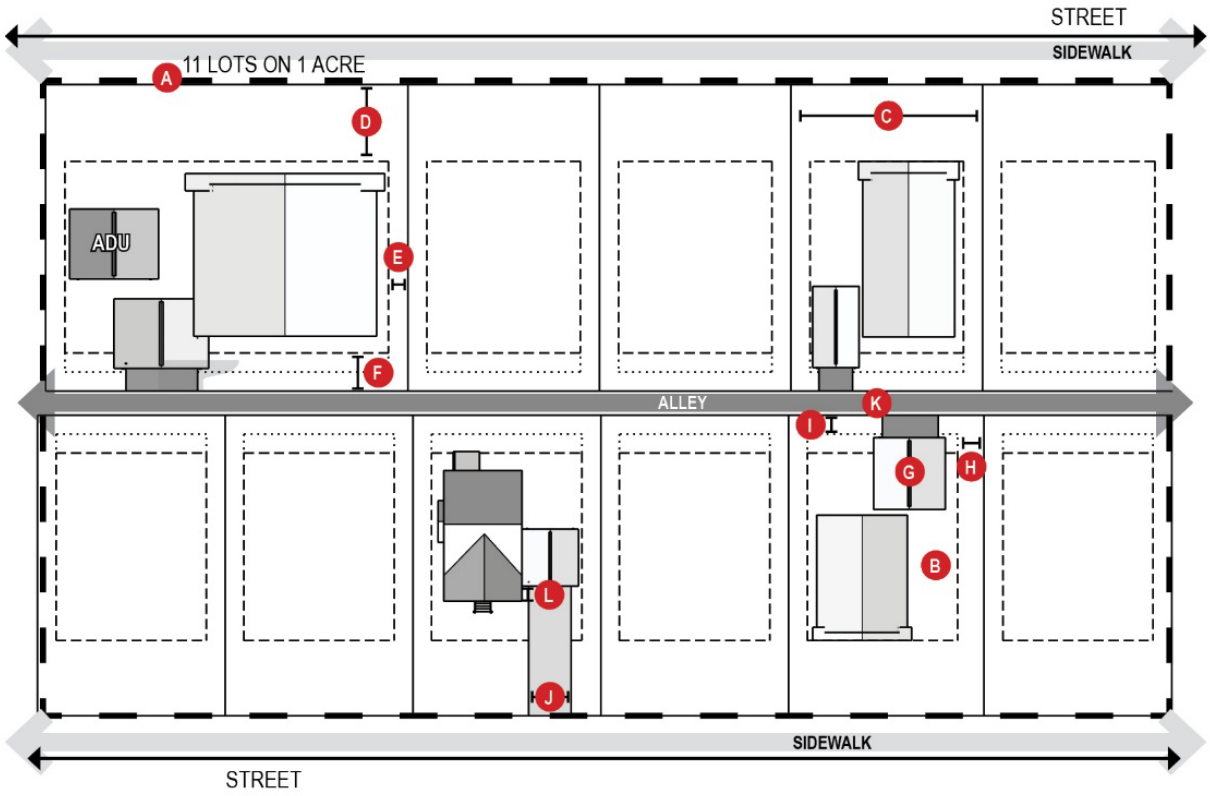
Figure 515-2-9.1. TN-2 Density and Lot Dimensional Standards Diagram



515-2-10 Traditional Neighborhood 3 (TN-3)

A. **Purpose of the Traditional Neighborhood-3 Zoning District.** The TN-3 Zoning District is intended to allow larger sites/parcels (typically undeveloped "greenfield" sites) to be developed as a full mixed use, traditional neighborhood that is walkable, connected by a prominent public realm and supports a wide range of residential (attached and detached), commercial and community uses. The structure of the TN-3 District provides the City and future development groups with the regulations and guidelines needed to develop a comprehensive, resilient, and walkable neighborhood. The district regulations provide the following:

1. A network of connected streets and blocks.
2. General block sizes and configurations that support the Future Land Use plan.
3. Maximum block perimeters that foster attractive, safe, and walkable environments, while enhancing circulation through the site.

B. **Regulating Plan**. The TN-3 district is implemented through a Regulating Plan, approved with the rezoning to TN-3, which includes a combination of at least two of the three intensities described below and regulated by Table [515-2-10.1]. Areas must be divided into neighborhoods by the introduction of a primary thoroughfare network, and then into blocks by the completion of the streets and open spaces. As the area is subdivided to generate blocks, parcels and individual building sites, the Regulating Plan assigns intensities that may be refined with approval by the Zoning Administrator according to [E.7]. of this Section. Regulating plans, consisting of one or more maps, must show the following:

1. District boundaries.
2. Existing infrastructure including streets, parks and open space.
3. Thoroughfare network according to subsection [E.3.].
4. Park/open space area.

C. **Permitted Uses.** See Appendix A: Table of Uses.

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D. **TN-3 Zoning District Dimensional Standards.** Table 515-2-10.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-10.1. TN-3 Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Size (minimum) Density (range)	20 acres minimum 9 – 20 DU/Acres up to 45 DU/AC
B	Buildable Area (minimum)	Outside all Setbacks
C	Lot Frontage on All Roads (range)	45' – 100'
D	Block dimensional standards	Per Regulating Plan standards
Principal Building & Attached Accessory Building Standards		
	Front Yard Setback (range)	0 - 30'
	Side Yard Setback (minimum)	5'/10' corner
	Rear Yard Setback (minimum)	10'
	Accessory Building SF, attached	Counts towards Total Allowable SF
	Accessory Building Number, attached	Does not count towards Permitted Number
Detached Accessory Building Standards		
	Location, detached	Behind Principal Building
	Side Yard Setback, detached (minimum)	5' /10'
	Rear Yard Setback, detached (minimum)	5'
	Total Allowable Accessory Building SF	750 SF or 10%, whichever is greater
	Total Number of Permitted Accessory Buildings	2
	▪ Exception if no Attached Accessory Building is present, total Number Permitted	3
	Accessory Dwelling Unit (ADU), attached or detached	Permitted
	▪ Size of ADU (maximum)	650 SF
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	Per Regulating Plan standards
	Principal structure height (maximum) See Section 515-4-3	Per Regulating plan
	Accessory structure height (maximum)	Up to 35' but may not exceed height of principal structure
Other Standards		
	Driveway	If front loaded, Width at ROW maximum is 18'
	Alley	If present, access and garage/parking is required
	Garage	If front loaded, must be setback minimum of 5' from Principal Structure
	Sidewalk/Trail Standards	See Subdivision Ordinance Chapter 500
E	Neighborhood Park Standards	10,890 – 43,560 SF
F	Surface Parking Lot	Maximum width of 62' when fronting on a public right-of-way
	Surface Parking Lot, public edge	Surface lot exposure to a public right-of way shall have a landscape buffer or wall no less than 42" in height

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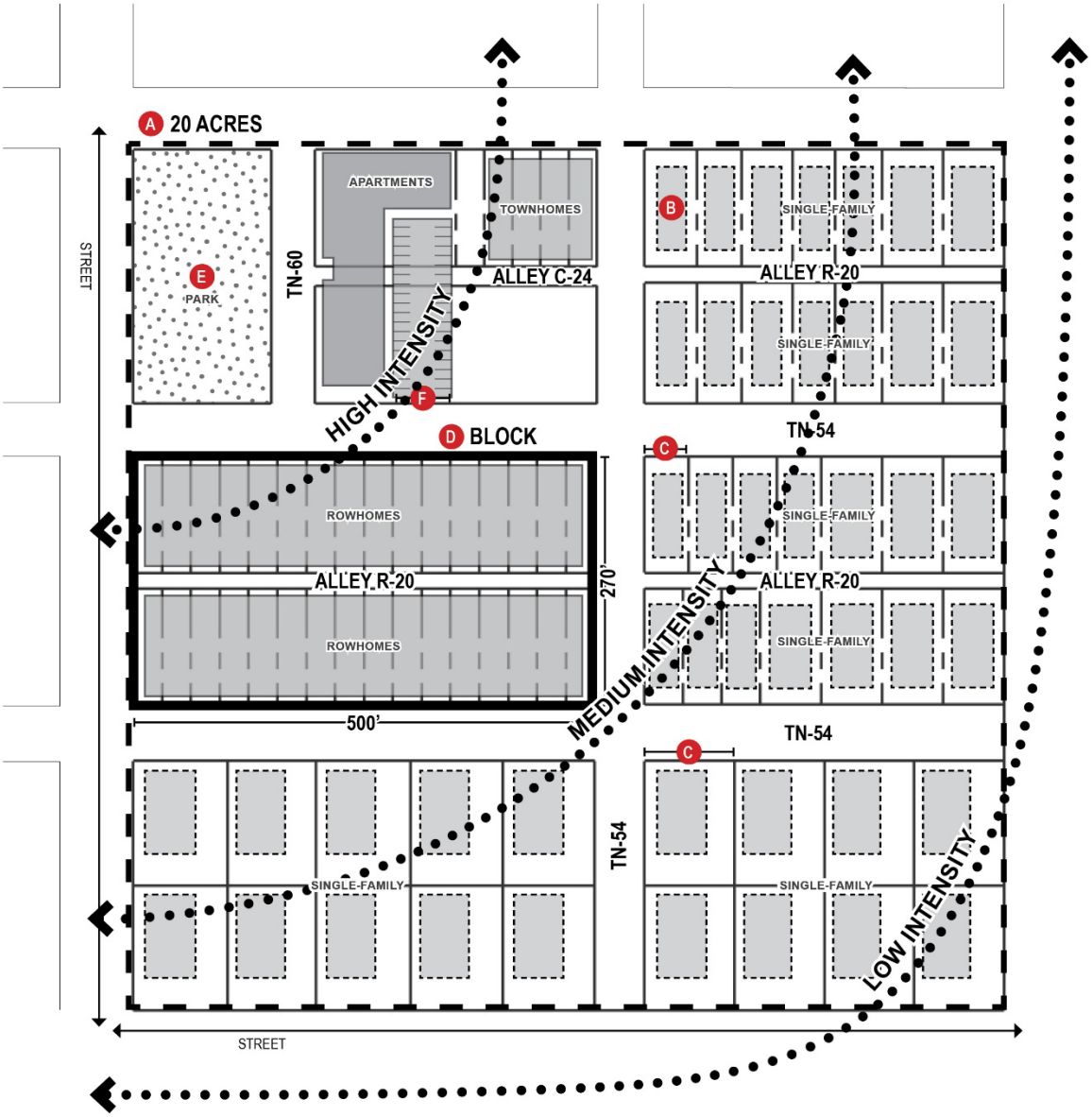
E. **Regulating Plan Standards for TN-3 Zoning District.**

1. Block standards.
   a. Block length must be no more than 500 feet, unless mid-block passage is provided then additional length up to 800 feet maximum is permitted.
2. Block dimensions. Block length may be adjusted up to 20% with approval from the Zoning Administrator due to topography, existing development conditions, or if the block is at the perimeter of the TN-3regulating plan. Block lengths up to 800 feet may be approved if a mid-block pedestrian passage is provided.
   a. *Block Sizes:* Blocks shall be compact so that they are comfortably walkable and appropriate for their context.
   b. Block sizes are flexible, but the perimeter should not exceed 1,800 linear feet. An average block perimeter of approximately 1,500 feet is preferred.
   c. Exceptions may be made for natural elements such as wetlands, trees, topography, and cultural resources, to be incorporated into the site design
3. Thoroughfare standards.
   a. All thoroughfares must connect to other thoroughfares, forming a network.
   b. New thoroughfares must connect wherever possible to thoroughfares on adjacent sites. Cul-de-sacs may only be permitted by approval of the Zoning Administrator to accommodate specific site conditions.
4. Mid-block pedestrian passages.
   a. In areas with adequate vehicular capacity, pedestrian-only connections may be used mid-block and will count as a new edge in block perimeter calculations. Mid-block passage shall be a minimum of 12 feet wide.
5. Parking lot layout.
   a. In addition to the parking regulations of Section [515-4-12], parking lots in TN-3 must be laid out per Table [515-2-10.1] and must to have minimum visual impact on public rights-of-way.
6. Lot standards.
   a. Lots must have minimum and maximum widths according to Table [515-2-10.1]
   b. Each lot must have a primary frontage along a vehicular thoroughfare, except up to 20% of the parcels in a Regulating Plan may front a civic space or pedestrian passage.
   c. Where lots have multiple frontages, one frontage line must be designated as primary and any other frontage lines must be designated as secondary.
7. Intensities.
   a. TN-3 intensities are comprised of:
      i. *Low intensity:* Consists of medium density residential areas, with a mix of uses, home occupations, and accessory buildings. It contains a wide range of building types — houses, courtyard housing, townhouses, duplexes, triplexes, small apartment buildings, and neighborhood commercial uses.
      ii. *Medium intensity:* Consists of a mix of uses but is primarily medium to high density residential and neighborhood commercial uses.
      iii. *High intensity:* Consists of commercial and higher density mixed-use buildings that accommodate retail, offices, institutions, and multi-family housing.

Figure 515-2-10.1. TN-3 Lot Diagram



**See the following page and figures for street sections.*

Figure 515-2-10.2. TN-3 Residential Alley R-20

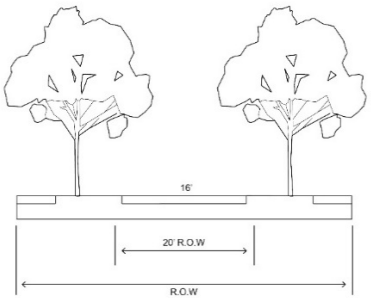


Figure 515-2-10.3. TN-3 Commercial Alley C-24

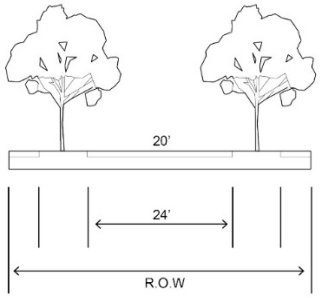


Figure 515-2-10.4. TN-3 Local Street TN-54 Parking on One Side on Two Sides.

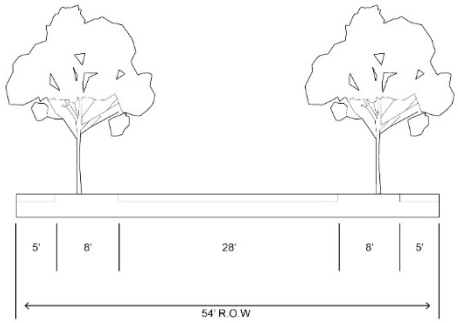


Figure 515-2-10.5. TN-3 Local Street TN-60 Parking

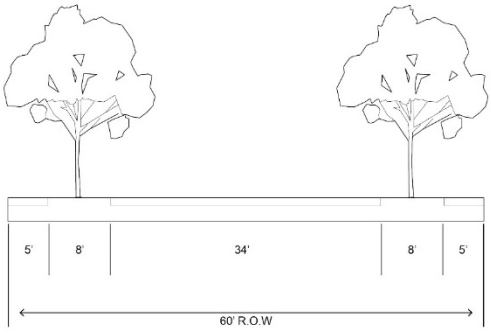
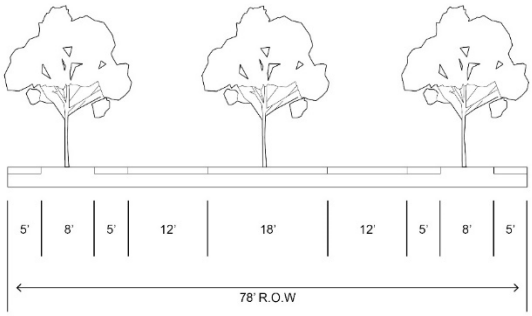


Figure 515-2-10.6. TN-3 Traditional Parkway TP-78 With Dedicated Bike Lane



515-2-11 Town Center (TC) District

A. **Purpose of the Town Center Zoning District**. The purpose of the TC Zoning District is to encourage the continuation of a viable, traditional downtown area by allowing retail, service, office and entertainment facilities and public and semi-public uses as well as multi-family dwelling units.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **TC Zoning District Dimensional Standards.** Table 515-2-11.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-11.1. TC Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
	Lot Size Density (minimum)	None 20+ DU/Acre
	Lot Frontage on Public Roads	All lots must have public street frontage
Principal Building Setbacks		
A	Build-to Range	0'-10'
B	Side Yard Build-to Range	0'-10'
	Rear Yard Setback (minimum)	0'
Accessory Building Standards		
	Location	Rear 50%
	Side Yard Setback (minimum)	0'
	Rear Yard Setback (minimum)	0'
	Size (maximum)	500 SF
	Number (maximum)	1
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	100%
	Principal structure height (maximum) See Section 515-4-3	45'
Other Standards		
C	Frontage at lot corners	Corner buildings within 50' of the corner of two intersecting public roadways shall be setback 0'
D	Surface Parking Limit (minimum)	60' from Alley ROW
	Frontage Building Types	• Shopfront, Common Entry and Stoop all permitted (Figure 515-2-11.3); EXCEPT • On 8th Street and 6th Street as shown on Town Center District Frontage Overlay Stoop Buildings are Prohibited (Figure 515-2-11.2).
	Town Center District Frontage Overlay Use Restrictions	• Residential Uses are prohibited on the main floor adjacent to the public right-of-way. • Residential or Ground Floor Parking may be permitted on the ground floor if not abutting the right-of-way with a CUP.
	Sight Triangle	Buildings on corner lot must be setback a minimum of 15' from the pavement edge of any public street.

Figure 515-2-11.1. TC Density and Lot Dimensional Standards Diagram

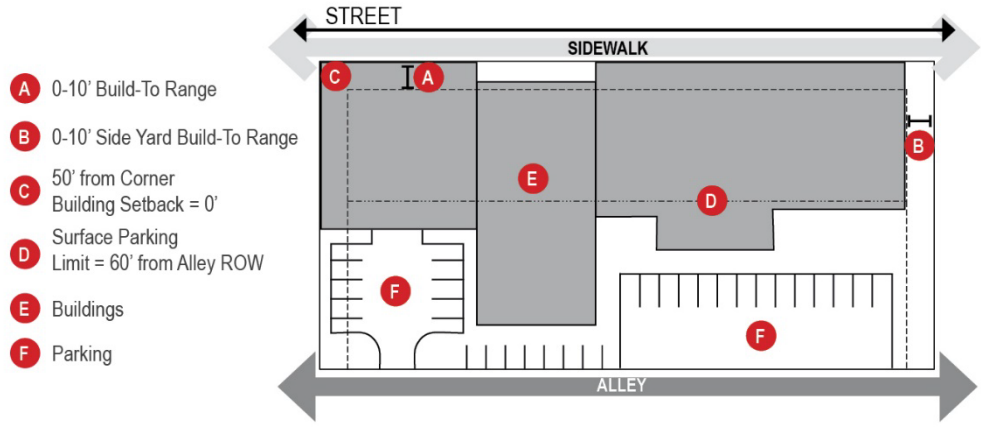


Figure 515-2-11.2. TC District Frontage Overlay

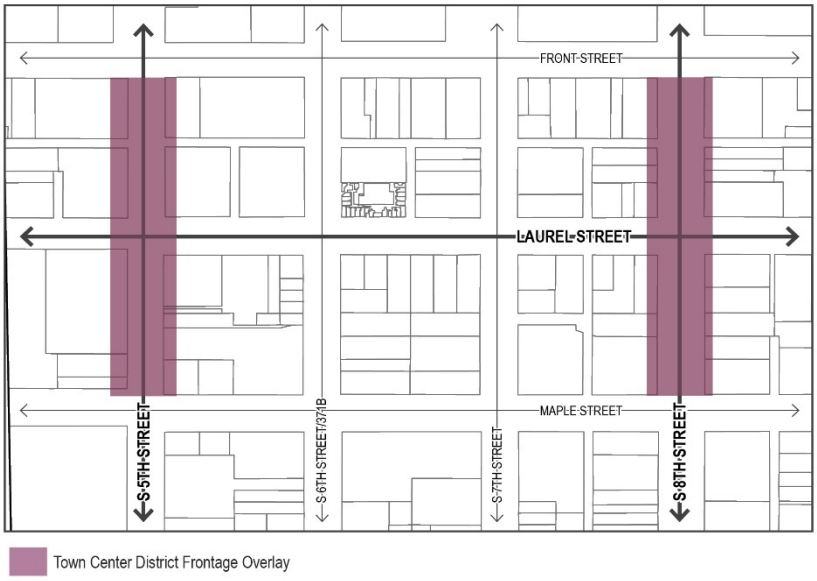
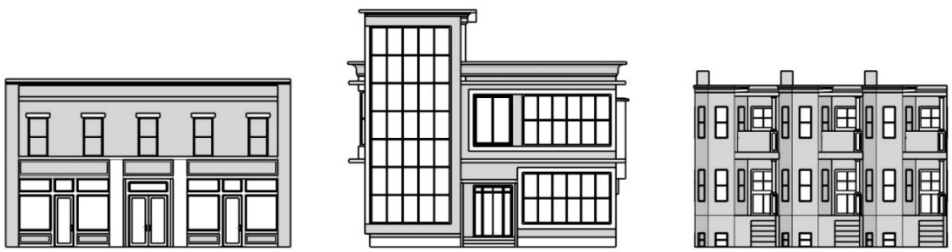


Figure 515-2-11.3. Example of TC Shopfront, Common Entry and Stoop Building Types



515-2-12 Main Street Zoning District (MS)

A. **Purpose of Main Street Zoning District**. The purpose of the MS Zoning District is to encourage the continuation of a viable, traditional downtown area by allowing a mix of retail and commercial uses that physically contribute to and reinforce the well-formed, walkable development pattern.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **MS Zoning District Dimensional Standards.** Table 515-2-12.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-12.1. MS Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
	Lot Size (range) Density (maximum)	Not applicable 20+ units per acre
	Lot Frontage on Public Roads	All lots must have public street frontage
Principal Building Setbacks (Minimum)		
A	Build-to Range	0-6'; A minimum of 50% of a building façade must be built to 0'
	Side Yard Setback (minimum)	0'
	Rear Yard Setback (minimum)	0'
B	Surface Parking Limit (minimum)	60' from Alley ROW
Accessory Building Standards		
	Accessory Building	Not Permitted
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	100%
	Principal structure height (maximum) See Section 515-4-3	45'
Other Standards		
D	Frontage Required	• Shopfront or Common Entry building type required (Figure 515-2-12.3) • No Residential Use is permitted on the main/ground floor
	Sight Triangle	Buildings on corner lot must be setback a minimum of 15' from the pavement edge of any public street.

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Figure 515-2-12.1. MS Density and Lot Dimensional Standards Diagram

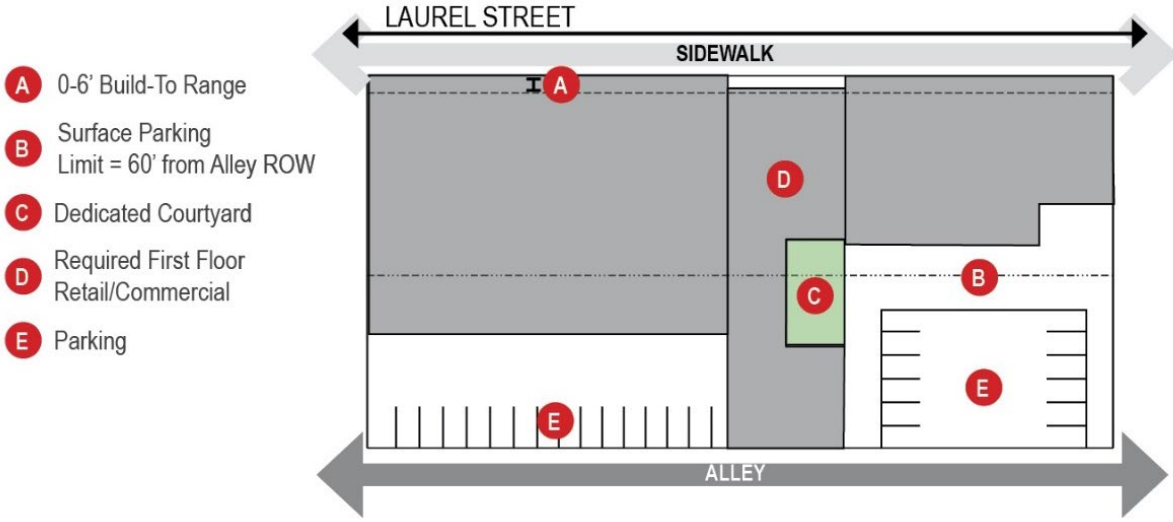
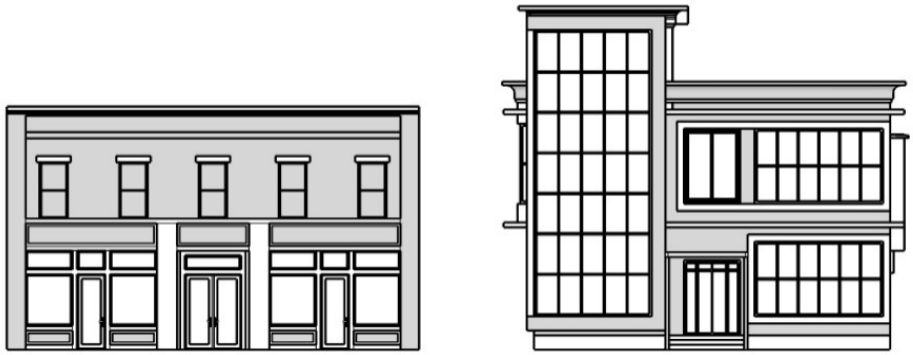


Figure 515-2-12.2. MS Example of Shopfront and Common Entry Building Types



515-2-13 General Commercial (GC)

A. **Purpose of General Commercial Zoning District**. The purpose of the GC District is to allow more intensive commercial uses that require the primary street network for access and circulation.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **GC Zoning District Dimensional Standards.** Table 515-2-13.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-13.1. GC Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Size (minimum)	15,000 SF
B	Buildable Area (minimum)	Outside all setbacks
C	Lot Frontage on All Roads (minimum)	100’
Principal Building Setbacks		
D	Front Yard Setback (minimum)	30’
E	Side Yard Setback (minimum)	20’/30’ corner
F	Rear Yard Setback (minimum)	20’
Accessory Building Standards		
	Location	Rear 50% of lot
	Side Yard Setback (minimum)	0’
	Rear Yard Setback (minimum)	0’
	Size (maximum)	500 SF
	Number (maximum)	1
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	90%
	Height (maximum) See Section 515-4-3	35’
Other Standards		
G	Parking Setback/Front (minimum)	5’

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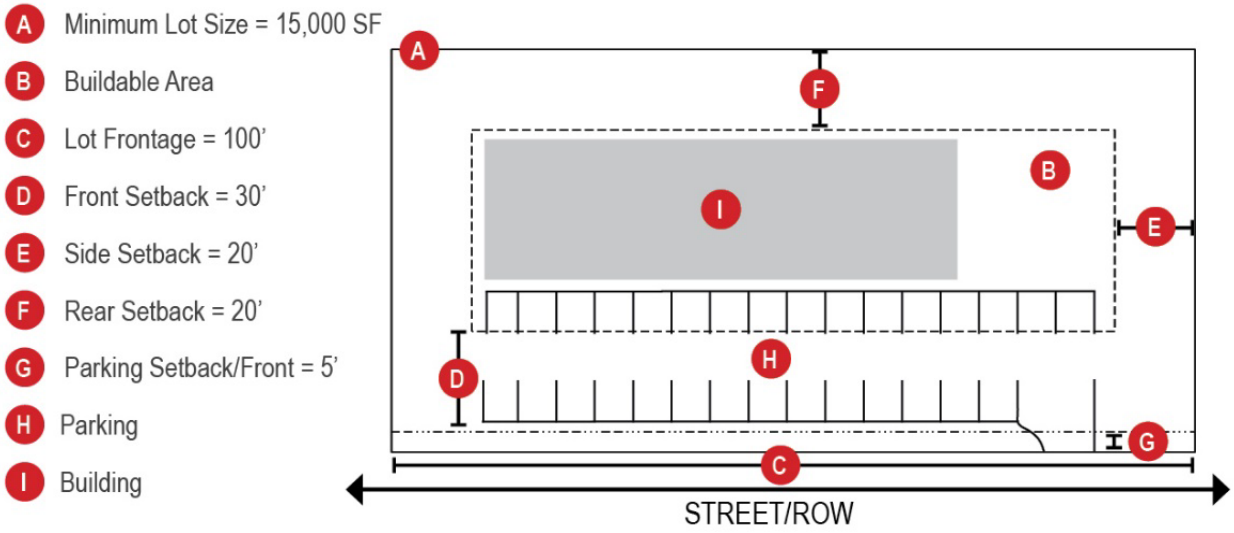
Figure 515-2-13.1. GC Density and Lot Dimensional Standards Diagram



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515-2-14 Commercial Corridor District (CC)

A. **Purpose of Commercial Corridor Zoning District**. The purpose and intent of the CC District is to provide zoning regulation flexibility to permit development consistent with land use patterns along the Washington Street corridor from the river to 6th Avenue NE that support walkable development patterns and connections to the neighborhoods.

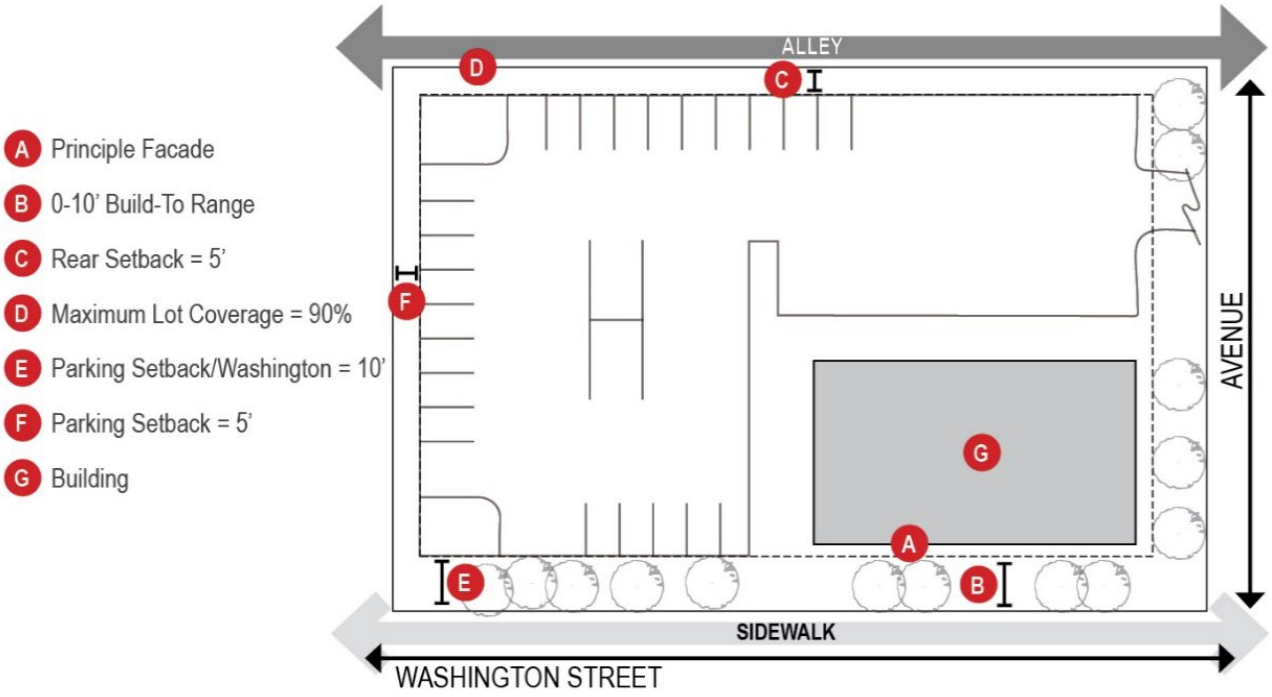
B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **Zoning District Dimensional Standards.** Table 515-2-14.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-14.1. CC Zoning District Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
	Lot Size (minimum)	none
	Lot Frontage on All Roads (minimum)	All lots must have public street frontage
A	Frontage	Principal Façade must front onto Avenue/Street
Principal Building Setbacks		
B	Principal Façade Build-to Range (Avenue)	0-10’
	Side Yard Setback (minimum)	0’
C	Rear Yard Setback (minimum)	5’
Accessory Building Standards		
	Location	Rear 50% of Lot
	Side Yard Setback (minimum)	0’
	Rear Yard Setback (minimum)	5’
	Size (maximum)	500 SF
	Number (maximum)	1
Coverage, Glazing and Height Standards		
	Principal structure height (See Section 515-4-3)	35’
	Principal Façade Glazing, Avenue (minimum)	65%
	Secondary Façade Glazing, Washington (minimum)	50%
D	Impervious Surface Coverage (maximum)	90%
Other Standards		
E	Parking Setback/Public Street (minimum)	10’
F	Parking Setback/Side/Rear/Alley (minimum)	5’, 10’ adjacent to public ROW
	Parking Fronting onto Public ROW	Minimum Screen or wall and landscape

Figure 515-2-14.1. CC Density and Lot Dimensional Standards Diagram



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515-2-15 Makers & Employment District (ME)

A. **Purpose of Makers & Employment Zoning District**. The purpose and intent of the ME Zoning District is to provide for the establishment of small start-ups, incubator and craft/maker businesses that may be appropriate in smaller buildings or on smaller parcels. This District may also incorporate light industrial, general office and commercial uses.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **ME Zoning District Dimensional Standards.** Table 515-2-16.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-15.1. ME Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Size (minimum)	12,000 SF
B	Lot Width (Frontage on Public Roads) (minimum)	80’
Principal Building Setbacks		
C	Front Yard Setback (range)	0-20’
D	Side Yard internal lot/corner lot (range)	0-10’
	Setback from adjacent residential district (minimum)	0’
E	Rear Yard Setback (minimum)	10’
Accessory Building Standards		
	Principal Structure Height (maximum) See Section [515-4-3]	35’
	Floor area (minimum)	1000 SF
Other Standards		
	Impervious Surface Coverage (maximum)	100%

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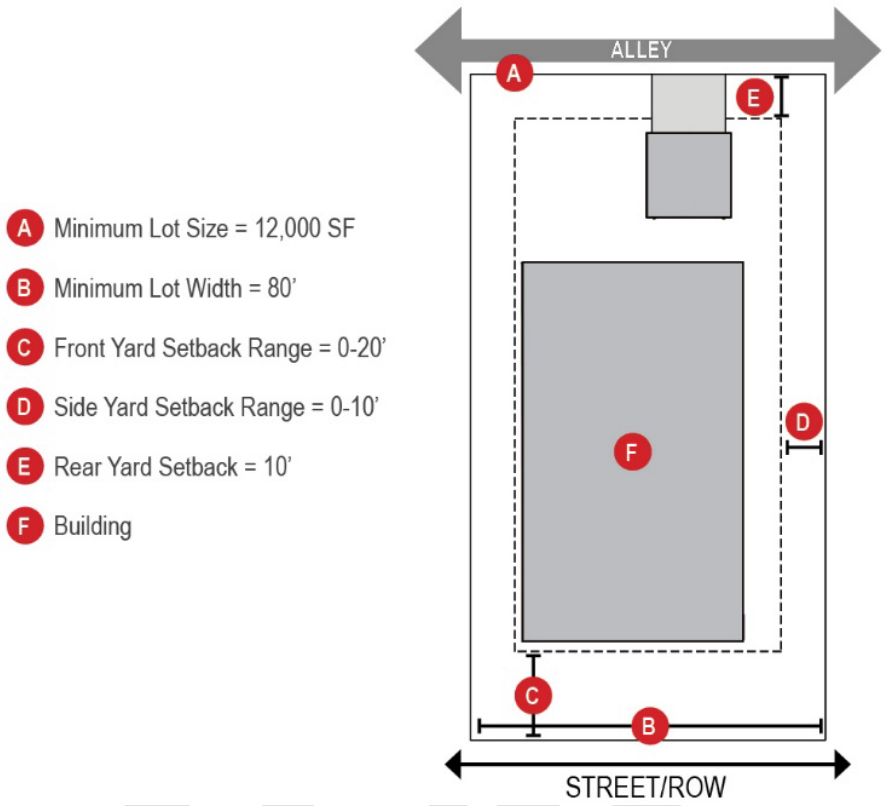
Figure 515-2-15.1. ME Lot Dimensional Standards Diagram



515-2-16 General Industrial Zoning District (GI)

A. **Purpose of General Industrial Zoning District**. The purpose of the GI Zoning District is to provide for the establishment of heavy industry and manufacturing development and use which because of the nature of the product or character of activity, requires isolation from residential and commercial uses.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **General Industrial Zoning District Dimensional Standards.** Table 515-2-16.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-16.1. General Industrial Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
A	Lot Area (minimum)	24,000 SF
B	Lot Width (minimum) (on a public street)	100’
Principal Building Setbacks		
C	Front Yard Setback (minimum)	40’
D	Side Yard Setback internal lot/corner lot (minimum)	10’/20’
E	Rear Yard Setback (minimum)	30’
	Setback from abutting residential district (minimum)	100’
Accessory Building Standards		
	Location	Behind principal structure, or attached
	Size (maximum)	Not to exceed 30% of gross floor area
	Setbacks	Must meet all principal building setbacks
Coverage and Height Standards		
F	Floor Area (minimum)	1000 SF
	Principal Structure Height (maximum) See Section [515-4-3]	35’

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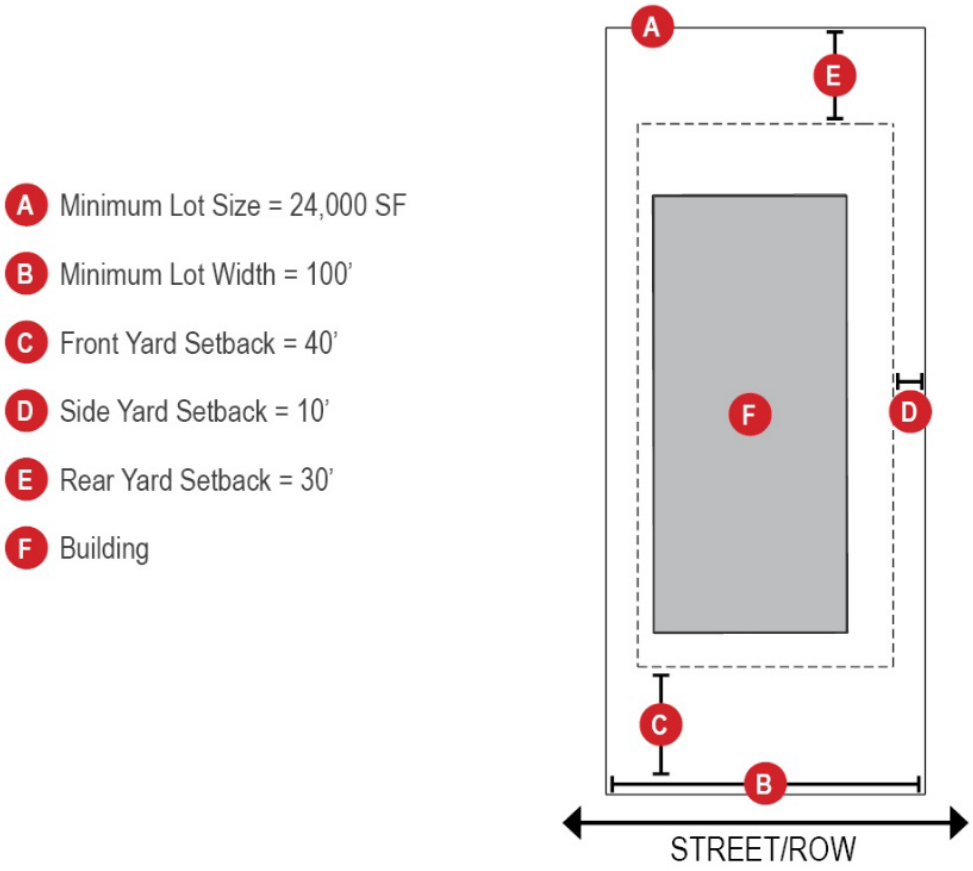
Figure 515-2-16.1. GI Lot Dimensional Standards Diagram



515-2-17 Public Semi-Public District (PSP)

A. **Purpose of Public Semi-Public Zoning District**. The PSP Zoning District is intended to identify lands used for community gathering spaces for purposes of education, recreation, congregation, worship, health, or similar. Lands zoned PSP contain 1.0 acres of land or provide a mix of community uses from a single facility or campus.

B. **Permitted Uses.** See Appendix A: Table of Uses.

C. **PSP Zoning District Dimensional Standards.** Table 515-2-17.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-17.1. PSP Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
	Lot Size (minimum)	1.0 Acre; or less if granted through CUP
	Lot Width (minimum) (Frontage on Public Roads)	80'
Principal Building Setbacks		
	Front Yard Setback (minimum)	20'
	Side Yard internal lot/corner lot (minimum)	10'
	Setback from adjacent residential district (minimum)	20'
	Rear Yard Setback (minimum)	10'
Accessory Building Standards		
	Location	Behind Principal Structure, or attached to principal structure
	Floor Area (maximum)	10% of Gross Floor Area
	Accessory Building Height	30', may not exceed height of principal building
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	90%
	Principal Structure Height (maximum) See Section [515-4-3]	35'

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515-2-18 Park District (P)

A. **Purpose of Park Zoning District**. The P District is intended to identify lands that are publicly owned and are managed for active or passive recreational uses. Lands zoned Park are predominantly open space, but may include improvements such as warming housing, pavilions, parking lots, soccer fields, tennis/pickleball courts, etc.

B. **Permitted Uses.** Passive and Active Recreational Uses.

C. **Park Zoning District Dimensional Standards.** Table [515-2-18.1] identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-18.1. Park Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
	Lot Size (minimum)	None
	Lot Width (minimum) (Frontage on Public Roads)	None
Principal Building Setbacks		
	Front Yard Setback (minimum)	20’
	Side Yard internal lot/corner lot (minimum)	10’
	Setback from adjacent residential district (minimum)	20’
	Rear Yard Setback (minimum)	10’
Accessory Building Standards		
	Location	No restriction
	Floor area (minimum)	None, CUP required for any building exceeding 1,500 SF
	Accessory Building Height	May not exceed height of principal building
Coverage and Height Standards		
	Impervious Surface Coverage (maximum)	N/A
	Principal Structure Height (maximum) See Section [515-4-3]	25’

515-2-19 Manufactured Home Overlay District (MH-O)

A. **Purpose of the Manufactured Home Overlay District.** The purpose of the MH-O District is to provide a separate district for manufactured housing parks, distinct from other residential areas.

B. **Permitted Uses.**

1. One family detached manufactured dwellings.
2. Public recreation areas and related accessory buildings and structures.

C. **Accessory Uses**.

1. Home Businesses as regulated in Section [515-3-19] of this Ordinance.
2. Storage of private recreational vehicles and equipment subject to Section [515-3-31] of this Ordinance.
3. Common swimming pool, sport courts and similar recreational facilities for the use of residents of the park and their occasional guests.
4. Tool houses, sheds and similar buildings for the storage of domestic supplies and equipment.

5. Private garages, parking spaces and car ports.
6. Community laundry facilities, storm shelters, park offices and recreational buildings.
7. Noncommercial greenhouses as regulated by Section [515-4-6.E.] of this Ordinance.

D. **Design and Operational Standards.**

1. General Provisions:
   a. All land area shall be:
      i. Adequately drained.
      ii. Landscaped to control dust.
      iii. Clean and free from refuse, garbage, rubbish or debris.
   b. No tents shall be used for other than recreational purposes in a manufactured housing park.
   c. There shall not be outdoor camping anywhere in a manufactured housing park.
   d. Access to manufactured housing parks shall be as approved by the City.
   e. All structures (fences, storage, cabana, etc.) shall require a building permit from the Building Official.
   f. The area beneath a manufactured housing unit shall be enclosed except that such enclosure must have access for inspection.
   g. A manufactured housing park shall have a central community building with the following features:
      i. Laundry drying areas and machines.
      ii. Laundry washing machines.
      iii. Public toilets and lavatories.
      iv. Storm shelter.
      v. Such buildings shall have adequate heating in all areas and be maintained in a safe, clear and sanitary condition.

E. **Site Plan Requirements.**

1. Legal description and size in square feet of the proposed manufactured housing park.
   a. Location and size of all manufactured housing unit sites, dead storage areas, recreation areas, laundry drying areas, streets and roadways, parking sites, and all setback dimensions (parking spaces, exact mobile home sites, etc.).
   b. Detailed landscaping plans and specifications.
   c. Location and width of sidewalks.
   d. Plans for sanitary sewage disposal, surface drainage, water systems, underground electrical service and gas service.
   e. Location and size of all streets abutting the manufactured housing park and all driveways from such streets to the manufactured housing park.
   f. Street and road construction plans and specifications.
   g. Plans for any and all structures.
   h. Such other information as required or implied by these manufactured park standards or requested by the Zoning Administrator.
   i. Name and address of developer(s) and/or owner(s).

j. Description of the method of disposing of garbage and refuse.

k. Detailed description of maintenance procedures and grounds supervision.

l. Details as to whether all of the area will be developed a portion at a time.

F. **Design Standards.**

1. Park Size. The minimum area required for a manufactured housing park designation shall be five (5) acres.
2. Individual manufactured housing site (homes 14 feet wide or less).
3. Each manufactured housing site shall contain at least 5,000 square feet of land area for the exclusive use of the occupant:
   a. *Width:* No less than 50 feet.
   b. *Depth:* No less than 100 feet.
4. Each manufactured housing site shall have frontage on an approved street or roadway and the corner of each manufactured home site shall be marked and each site shall be numbered.
5. Individual manufactured housing unit site setbacks.
6. In all manufactured housing parks, no housing unit shall be located closer than ten (10) feet to its side lot lines nor closer than 30 feet to its front lot line, or within ten (10) feet of its rear lot line.
7. All accessory structures such as awnings, cabanas, storage sheds, carports, windbreaks, entryways or solar energy system shall be located no closer than three (3) feet from any property line and in no case closer than ten (10) feet to the nearest adjoining manufactured home.
8. Building Requirements.
   a. No principal building shall exceed one (1) story or 25 feet, whichever is less.
   b. *Accessory Buildings*.
      i. Accessory buildings including garages shall be limited to one (1) per manufactured home lot.
      ii. Maximum allowable floor area shall not exceed six and one-half (6½) percent of the lot size.
      iii. Maximum Building Height: 16 feet.
   c. Location*:* The manufactured home park Site Plan shall designate the locations proposed for the development of garages and/or accessory buildings on each manufactured home lot. Said accessory buildings shall comply with the following setback requirements:
      i. No accessory building shall be located in the front yard.
      ii. An accessory building may be located in side or rear yards. All accessory buildings shall be set back from all adjoining lots a minimum of five (5) feet. Garages may be allowed with a zero (0) lot line setback and a shared driveway when built as a double garage and shared by adjacent lots.
      iii. Accessory buildings shall not be located within any utility easements.
   d. On lots having a lot width of 55 feet or greater, an accessory building shall be located at least ten (10) feet from any other building or structure on the same lot. On lots having a 50 foot lot width, accessory buildings shall be located at least nine (9) feet from any building or structure on the same lot.
   e. The unit structure is in compliance with the Guidelines for Manufactured Housing Installation, International Conference of Building Officials, 1983, as may be amended.
   f. No manufactured home site shall be used for parking more than one (1) manufactured home.
9. Parking.

a. Each manufactured housing site shall have off-street parking space for two (2) automobiles. All parking stalls shall be completely on the home lot they serve.

b. Each manufactured housing park shall maintain additional hard surfaced off-street parking lot(s) for guests of occupants in the amount of one (1) space for each three (3) home sites.

c. Access drives off streets and roads to all parking spaces and unit sites shall be hard surfaced according to specifications established by the City.

10. Utilities.

a. All manufactured housing units shall be connected to a public water and sanitary sewer system or a private water and sewer system approved by the State Department of Health and the City.

b. All installations for disposal of surface storm water must be approved by the City.

c. All utility connections shall be as approved by the City.

d. The source of fuel for cooking, heating or other purposes at each manufactured housing site shall be as approved by the City.

e. All utilities shall be underground. There shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile home equipment.

g. The park owner shall pay any required sewer connection fees to the City.

h. The park owner shall pay inspection and testing fees for utility service to the City.

i. Facilities for fire protection shall be installed as required by the City.

11. Internal Roads and Streets.

a. Roads and streets shall be bituminous or concrete surfaced as approved by the City.

b. All roads and streets shall have a concrete (mountable, roll type) curb and gutter.

c. All streets shall be developed with a roadbed of not less than 28 feet in width. If parking is permitted on the street then the road bed shall be at least 36 feet in width. To qualify for the lesser sized street, adequate additional off-street parking, as determined by the City, shall be provided and demonstrated.

d. The manufactured home park shall have a street lighting plan approved by the City.

12. Recreation.

a. All manufactured housing parks shall have at least 15 percent of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.) developed and maintained at the owner/operator's expense.

b. In lieu of land dedication for public park purposes, a cash contribution as established by the City's Subdivision Ordinance, as may be amended, shall be paid to the City.

13. Landscaping.

a. Each site shall be properly landscaped with trees, hedges, grass, fences, windbreaks and the like.

b. A compact hedge, redwood fence or landscaped area shall be installed around each manufactured home park and be maintained in as new condition at all times as approved.

c. All areas shall be landscaped in accordance with the landscaping plan approved by the Council.

14. Lighting.

a. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, storm shelters, and the like.

b. The manufactured housing park grounds shall be lighted as approved by the City from sunset to sunrise.

15. Storage.

a. Enclosed storage lockers (when provided) shall be located whether adjacent to the manufactured home in a manufactured housing park or at such other place in the park as to be convenient to the unit for which it is provided, as approved by the City.

b. Storage of larger items, such as boats, boat trailers, recreation vehicles, etc., shall be accommodated in a separate secured and screened area of the park, as approved by the City. No parking of such vehicles or equipment shall be permitted on the housing site.

G. **Registration.**

1. It shall be the duty of the operator of the manufactured housing park to keep a record of all homeowners and occupants located within the park. The register shall contain the following information:

a. The name and address of each unit occupant.

b. The name and address of the owner of each unit.

c. The make, model, year, and dimensions of each unit.

d. The State, territory or county issuing each unit's license.

e. The date of arrival and departure of each unit.

f. The number and type of motor vehicles of residents in the park.

g. The Park Operator shall keep the register available for inspection at all times by authorized City, State, and county officials, public health officials, and other public offices whose duty necessitates acquisition of the information contained in the register. The register shall not be destroyed until after a period of three (3) years following the date of departure of the registrant from the park.

H. **Maintenance.** The operator and/or owner of any manufactured housing park, or a duly authorized attendant and/or caretaker shall be responsible at all times for keeping the park, its facilities and equipment in a clean, orderly, operable and sanitary condition. The attendant or caretaker shall be answerable, along with said operator/owner, for the violation of any provisions of these regulations to which said operator/owner is subject.

515-2-20 Planned Unit Development (PUD) Overlay District

A. **Purpose of the Planned Unit Development Overlay District.** The purpose and intent of the PUD Overlay District is to provide for the integration and coordination of land parcels as well as the combination of various types of residential, commercial and industrial uses.

B. **Application.** All permitted, permitted accessory, or conditional uses identified in Appendix A: Table of Uses shall be treated as potentially permitted uses within a Planned Unit Development Overlay District (PUD).

C. **Procedure.** Whether requested as a rezoning or initially established by City action, a Planned Unit Development (PUD) Overlay District shall be established and governed subject to the procedures, conditions, standards, and amendment requirements as outlined in Section [515-5-7] of this Ordinance.

D. **Established PUD Overlay Districts**

1. Northern Pacific Center – Planned Unit Development (NPC-PUD). The purpose of the NPC-PUD is to allow for the development and redevelopment of the property with a mix of uses. The follow standards are established.

a. The standards and uses contained within the Town Center (TC) Base Zoning District shall govern the NPC-PUD district, with the modifications as noted in Table 515-2-20.1.

b. Development Standards. All approved Final PUD Plans shall govern the development of the property and shall be kept on file with the City Zoning Administrator.

Table 515-2-20.1. NPC-PUD Dimensional and Use Standards.

Principal Building		
	Front Yard Setback (minimum)	50’
	Side Yard internal lot/corner lot (minimum)	10’
	Rear Yard Setback (minimum)	10’
	Number of Permitted Principal Buildings	No limit
Accessory Building Standards		
	Front Yard Setback (minimum)	Behind principal structure closest to front yard lot line
	Side Yard Setback (minimum)	10’
	Rear Yard Setback (minimum)	10’
	Number of Permitted Accessory Buildings	May not exceed the total number of Principal Buildings
	Size	1,000 SF
	Total Accessory Building SF Permitted	Unlimited
Uses Permitted		
	Appendix A: Table of Uses, TC District	All permitted, conditional and interim uses
	Recreational Centers Exceeding 30,000 SF	C
	Telecommunications Towers	AP
	Public Recreation Areas and Buildings	P
	Public/Semi-Public Recreation Areas and Community Centers	P
	Trade/Specialty Schools	C
	Light Manufacturing	C
	Radio and TV Antennas	AP
	Radio and TV Studios	AP
	Residences for Night Watchmen or Security Personnel	AP
	Warehousing	P

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ALLOWED USES.

515-3-1 Uses. This Section is intended to describe the land uses that are permitted, permitted through regulations or requirements, or that are prohibited within the City.

A. This Section, including Appendix A: Table of Uses, is organized and classifications are assigned by Base Zoning District. Properties fully or partially contained within an Overlay District are subject to additional standards and use restrictions which are provided in the applicable Overlay District standards. The process for obtaining any required permit is provided in Section [515-5] of this Ordinance.
B. **Table of Uses.** The Table of Uses is provided in Appendix [A] of this Ordinance. The Table of Uses is organized by Use Type and Base Zoning District. The Table of Uses classifies the identified use as either permitted, permitted through regulation or requirement, or prohibited.

515-3-2 Uses Not Provided for in this Ordinance. Whenever in any Zoning District, if a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the City Council or Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what Zoning District would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission, or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

515-3-3 Use Specific Regulations. The following performance standards are established and must be met to obtain the applicable permit as identified on the Appendix A: Table of Uses. The standards which follow are the minimum required standards, and if listed as a conditional use, additional standards or reasonable conditions may be placed on any approved permit for the requested use. All uses shall comply with the rules and regulations of the Base Zoning District, Special District and Overlay District were applicable. Any use must also meet the rules and regulations of any other applicable agencies with jurisdiction of the subject use including local, State and Federal agencies.

A. **Minimum Standards Established.** The following Use Specific Regulations are established as minimum requirements. Any use identified on Appendix A: Table of Uses that requires an Administrative Permit, Interim Use Permit or Conditional Use Permit is subject to additional reasonable conditions as established during the applicable permitting process.

B. **Compliance with General Building Development and Design Standards.** All uses, whether permitted or conditionally permitted, that change or alter a site must comply with the standards established by Section [515-4}, including the following specific references:

1. Section [515-4-8] Outdoor Lighting.
2. Section [515-4-9] Landscaping, Green Space and Screening Requirements.
3. Section [515-4-10] General Landscaping Improvement Standards.
4. Section [515-4-11] Fence Standards.
5. Section [515-4-12] Off-street Parking.

C. **Additional Standards for Uses abutting RL-1, RL-2, CN-1, CN-2, and TN-1 Zoning Districts.** The uses identified on the Table of Uses have been identified as reasonably permitted within a Base Zoning District.

Some non-residential uses are permitted within predominantly residential Zoning Districts. The following additional standards are established for such uses:

1. Any non-residential use in a commercial or industrial zoning district that abuts a residential use or Residential Zoning District shall screen any abutting property line to comply with the standards established in 515-4-9 and 515-4-10. For purposes of this Section the following Residential and Non-Residential Zoning Districts are defined as:

   a. *Residential Zoning Districts:* RL-1, RL-2, GL, CN-1, CN-2, and TN-1.

   b. *Non-residential Zoning Districts:* CC, GC, TN-2, TC, MS, PSP, ME, and GI.

515-3-4 Adult Establishments.

A. **Purpose and Intent**.

1. **Findings of the City Council.** Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, MN; Indianapolis, IN; Alexandria, MN; Rochester, MN; Phoenix, AZ; Los Angeles, CA; Seattle, WA; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of Brainerd makes the following findings regarding the need to regulate adult establishments. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff. Based on these studies and findings, the City Council concludes:

   a. Adult establishments have adverse secondary impacts of the types set forth above.

   b. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.

   c. It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the City.

   d. Minnesota State Statutes, Section 462.357, allows the City to adopt regulations to promote the public health, safety, morals, and general welfare.

   e. The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.

   f. Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing City crime prevention programs and law enforcement services.

   g. Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

   h. Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

   i. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

2. It is the purpose of this Ordinance to regulate adult establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

a. Prevent additional criminal activity within the City.

b. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood.

c. To locate adult establishments away from residential areas, schools, churches, libraries, parks, and playgrounds.

3. Prevent concentration of adult establishments within certain areas of the City.

a. *Provisions***.** The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent or effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

B. **Applications of this Ordinance.**

1. In General.

a. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

b. No adult establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Brainerd, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

2. Existing Adult Establishments. Within twelve (12) months of the effective date of this Ordinance, any existing adult establishment shall be in compliance with all requirements of this Ordinance. Existing adult establishments are exempt from the location requirements in Section [3].

3. Location. Adult establishments are permitted uses in the General Industrial (GI) District, subject to the following requirements:

a. An adult use shall not be allowed within six hundred (600) feet measured in a straight line from the building or edge of leased building space to another existing adult use.

b. An adult use shall not be located within five hundred (500) feet measured in a straight line from the building or edge of a leased building space to the property line of any residentially zoned property.

c. An adult use shall not be located within one thousand (1,000) feet measured in a straight line from the building or edge of leased building pace to the property line of any existing school, place of worship, library, day care, park or playground.

d. An adult use shall not be located within five hundred (500) feet measured in a straight line from the building or edge of a leased building space to the property line of any City owned park and recreational property.

4. Hours of Operation. No adult establishment shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m., weekdays and Saturdays, nor at any time on Sundays or national holidays.

5. Operation.

a. *Off-site Viewing.* Any business operating as an adult establishment shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.

b. *Entrances.* All entrances to the business, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way.

6. Layout. The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.

7. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

8. Signs. Signs for adult establishments shall comply with the City's Ordinance for signs addressed in the Ordinance Section [515-3-35]. Signs for adult establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.

9. Access by Minors. No minor shall be permitted on the licensed premises. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

10. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:

a. No dancer, live entertainer or performer shall be under eighteen (18) years old.

b. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two (2) feet from the level of the floor.

c. No dancer or performer shall perform any dance or live entertainment closer than ten (10) feet to any patron.

d. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.

e. No patron shall pay or give any gratuity to any dancer or performer.

f. No dancer or performer shall solicit or receive any pay or gratuity from any patron.

C. **Licenses.**

1. Licenses Required. All adult establishments, including any adult establishment operating at the time this Ordinance becomes effective, shall apply for and obtain a license from the City of Brainerd. A person or entity is in violation of this Ordinance if the person or entity operates an adult establishment without a valid license, issued by the City.

2. Applications. An application for a license must be made on a form provided by the City and must include:

a. If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five (5) percent of the issued and outstanding stock of the corporation.

b. The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's.

c. The address and legal description of the premises where the adult establishment is to be located.

d. A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or adult business by the applicant, operator, or manager, and whether the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five (5) percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community.

e. The activities and types of business to be conducted.

f. The hours of operation.

g. The provisions made to restrict access by minors.

h. A building plan of the premises detailing all internal operations and activities.

i. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

j. A statement that the applicant is qualified according to the provisions of this Ordinance and that the premises have been or will be inspected and found to be in compliance with the appropriate State, County, and local law and codes by the health official, fire marshal, and building inspector.

k. The names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two (2) persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.

l. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.

m. Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

3. Disqualifications. The City will issue a license to an applicant within thirty (30) days of the application unless one or more of the following conditions exist:

a. The applicant is under 21.

b. The applicant failed to supply all of the information requested on the license application.

c. The applicant gives false, fraudulent, or untruthful information on the license application.

d. The applicant has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments.

e. The adult establishment is not in full compliance with this Code and all provisions of State and Federal law.

f. The applicant has not paid the required license and investigation fees.

g. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment or such license has been suspended or revoked, within the preceding twelve (12) months.

h. The applicant is not the proprietor of the establishment for which the license is issued.

i. The adult establishment premises holds an intoxicating liquor, beer or wine license.

4. Re-qualification. An applicant may qualify for an adult establishment license:

   a. After one (1) year has elapsed in the case of a previous license revocation.

   b. After two (2) years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor offense.

   c. After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense.

   d. After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two (2) or more misdemeanor offenses of combination of misdemeanor offense occurring within any twenty-four (24) month period.

5. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult establishment so that it may be easily read at any time.

6. Fees.

   a. The license fee for adult establishments is as follow:

      i. The initial license fee shall be established by amendment to Section [1010] of the Brainerd City Code.

      ii. An application for a license must be submitted to the City Administrator and accompanied by payment of the required license fee. Upon rejection of an application for a license, the City will refund the license fee.

7. Licenses will expire on December 31 in each year. Each license will be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any un-expired fraction of a month will be counted as one month.

8. No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the City Council within thirty (30) days from the

happening of one of the following events, provided that the event occurs more than thirty (30) days before the expiration of the license:

a. Destruction or damage of the licensed premises by fire or other catastrophe.

b. The licensee's illness, if such illness renders the licensee unable to continue operating the licensed adult establishment.

c. The licensee's death.

d. A change in the legal status making it unlawful for the licensed business to continue.

9. An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City Council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the City Administrator in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

10. The one-time non-refundable background investigative fee for an adult establishment license is one hundred dollars ($100.00) and shall be charged for each person identified on the application as an owner, operation, or manager of the business and for each successor, owner, operator or manager.

D. **Procedures for granting an adult establishment license.** The procedures are as follow:

1. The City will conduct and complete an investigation within thirty (30) days after the City Administrator receives a complete application and all license and investigative fees.

2. If the application is for a renewal, the applicant will be allowed to continue business until the City Council has determined whether the applicant meets the criteria of this Ordinance for a renewal license.

3. If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the City Council within thirty (30) days after the investigation is completed. If the City Council fails to act within thirty (30) days after the investigation is completed, the application will be deemed approved.

4. A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five (5) percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult establishments existing at the time of the adoption of this Section must obtain an annual license.

E. **Inspection.**

1. Access. An applicant or licensee shall permit health officials, representatives of the Police Department, Fire Department, Zoning Department, and Building Inspector, to inspect the premises of an adult establishment for the purpose of ensuring compliance with the law at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.

2. Refusal to Permit Inspections. A person who operates an adult establishment or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the Police Department, Fire Department, and Building Inspector at any time it is occupied or open for business. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license as provided in [F, G and H] of this Subsection.

3. Exceptions. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least twelve (12) hours.

4. Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one (1) year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request.

F. **Expiration and Renewal.**

1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in preceding subsections [C and D]. Application for renewal accompanied by a fifty dollars ($50.00) renewal investigation fee must be made at least sixty (60) days before the expiration date.

2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

G. **Suspension.**

1. Causes of Suspension. The City may suspend a license for a period not to exceed thirty (30) days if it determines that the licensee or an employee of a licensee has:

   a. Violated or is not in compliance with any provision of this Ordinance.

   b. Engaged in the sale or use of alcoholic beverages while on the adult establishment premises other than at an adult hotel or motel.

   c. Refused to allow an inspection of the adult establishment as authorized by this Ordinance.

   d. Knowingly permitted gambling by any person on the adult establishment premises.

   e. Demonstrated inability to operate or manage an adult establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

2. Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

H. **Revocation.**

1. Suspended Licenses. The City may revoke a license if a cause of suspension in Subsection [G] occurs and the license has been suspended at least once before within the preceding twelve (12) months.

2. Causes of Revocation. The City may revoke a license if it determines that:

   a. A licensee gave false or misleading information in the material submitted to the City during the application process.

   b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.

   c. A licensee or an employee has knowingly allowed prostitution on the premises.

d. A licensee or an employee knowingly operated the adult establishment during a period of time when the licensee's license was suspended.

e. A licensee has been convicted of an offense listed in Section [C.3], for which the time period required in Section [C.4], has not elapsed.

f. On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section [C.3] for which a conviction has been obtained, and the person or persons were employees of the adult establishment at the time the offenses were committed.

g. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

I. **Appeals.** The fact that a conviction is being appealed shall have no effect on the revocation of the license.

J. **Exceptions.** Section [H.2.g.], does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

K. **Granting a License After Revocation.** When the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult establishment license for one (1) year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license is revoked under Section [H], an applicant may not be granted another license until the appropriate number of years required under this Section have elapsed.

L. **Notice.** A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

M. **Procedures.** Issuances, suspensions, revocations and non-renewals of adult establishment licenses are governed by the following provisions:

1. In the event that the City Council proposes not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The Council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within thirty (30) days of the date of the notice. The City Council must determine whether to suspend or revoke a license within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner. The Council must notify the licensee of its decision within that period.

2. If the Council determines to suspend or revoke a license, the suspension or revocation is not effective until fifteen (15) days after notification of the decision to the licensee. If, within that fifteen (15) days, the licensee files and serves an action in State or Federal court challenging the Council's action, the suspension or revocation is stayed until the conclusion of such action.

3. If the City Council determines not to renew a license, the licensee may continue its business for fifteen (15) days after receiving notice of such non renewal. If the licensee files and serves an action in State or Federal court within fifteen (15) days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.

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4. If the City Council does not grant a license to an applicant, then the applicant may commence an action in State or Federal court within fifteen (15) days for the purpose of determining whether the City acted properly. The applicant may not commence doing business unless the action is concluded in its favor.
5. Transfer or License. A licensee shall not transfer this license to another, nor shall a licensee operate an adult establishment under the authority of a license at any place other than the address designated in the application.
6. Severability. Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.
7. Effective. This Ordinance shall be effective one (1) week from and after its publication.

515-3-5 Animal Hospital, Veterinary Clinic or Kennel

A. Any Animal Hospital, Veterinary Clinic or Kennel must comply with the following minimum standards:

1. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.
2. Animal carcasses are properly disposed of in a manner not utilizing on-site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.
3. A ventilation system shall be designed so that no odors or organisms will spread between wards or to the outside air and will be capable of completely exchanging internal air at a rate of at least twice per hour. Air temperature must be maintained between sixty (60) and seventy-five (75) degrees Fahrenheit.
4. A room separate from the kennel area shall be provided of sufficient size to adequately separate animals that are sick or injured from healthy animals.
5. Indoor animal kennel floors and walls shall be made of non-porous materials or sealed concrete to make it non-porous.
6. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.
7. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.
8. An animal kennel in the TN-2, TN-3 and CC Zoning Districts is permitted as an accessory use to a veterinary clinic provided that:
   a. The number of animals boarded shall not exceed twenty (20).
   b. An indoor or outdoor exercise area shall be provided to accommodate the periodic exercising of animals boarded at the kennel.

515-3-6 Auto Dealership

A. Any Auto Dealership must comply with the following minimum standards:

1. Outdoor sales area shall be set at least five (5) feet back from all property lines, and at least 15 feet back from any Street surface.
2. Outdoor sales shall be physically defined on the site by surfacing, curbing, landscaping, or a fence barrier.
3. The boulevard portion of the street right-of-way shall not be used for parking, or storage or display of sale items.

4. Outside sales areas must be fenced or screened from view of neighboring residential uses or abutting Residential Zoning Districts.
5. All lighting shall be hooded and downcast so that the light source is not visible from the public right-of-way or from an abutting residence.
6. All display/sales/storage areas must be paved, and must comply with any requirements of the City Engineer.
7. Required parking shall be segregated from the sales display. The area used for sales shall not take up any required parking space.

515-3-7 Auto and Truck Repair (including Body Shops)

A. Any Auto and Truck Repair business must comply with the following minimum standards:

1. All outdoor storage of vehicles shall be screened by at least a six (6) foot fence, but not in excess of eight and one-half (8½) feet in height, and shall be ninety (90) percent opaque fence.
2. Any vehicle parked or stored on the property for longer than twenty-four (24) hours shall be kept in the screened yard.
3. The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a storm water drainage system and is subject to the approval of the City Engineer.
4. All painting shall be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulated matter so that the use shall be in compliance with the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, or successor regulations.
5. The emission of odor by a use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota regulations APC, or successor regulations.
6. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota Uniform Fire Code.
7. All outside storage shall be prohibited except for customer automobiles and trucks awaiting repair.

515-3-8 Auto Wrecking or Salvage Yard

A. Any Auto Wrecking or Salvage Yard uses must comply with the following minimum standards:

1. The perimeter of the yard area used for auto wrecking or salvage must be screened by a fence or compact evergreen hedge which is at least fifty (50) percent opaque and at least six (6) feet high.
2. All other yards must be screened to comply with the applicable standards stated in Section [515-4-10].
3. The outside storage area must be surfaced to control dust and drainage, which shall be subject to the approval of the City Engineer

515-3-9 Bed and Breakfasts

A. **Purpose and Intent.** The City Council recognizes that bed and breakfasts are an asset to the community and help the preservation of historic homes because the expense of owning and maintaining historic homes has made them less suitable for single family dwellings. Conversion of historic houses into multifamily uses is usually determined by the neighborhood where it is located. It is therefore the intention of the City to limit bed and breakfast uses to those homes where the use would benefit the surrounding area by allowing appropriate adaptive reuse of historic dwellings.

B. **Application.** Any bed and breakfast must comply with the following standards:

1. At least two (2) off-street parking spaces must be provided on site for the owner and one (1) parking space for each room of a bed and breakfast unit. The parking spaces must be signed and the parking plan approved by the Zoning Administrator.
2. The dining facilities must not be open to the public and must be used exclusively by the registered guests unless allowed as a separate permitted or conditional use.
3. Bed and breakfast uses in residential areas must be located at 600 feet apart (approximately two (2) blocks).
4. An identification sign not exceeding 12 square feet may be located on the site. The sign must match the architectural features of the structure.
5. The maximum of six (6) bed and breakfast guestrooms may be established in a structure. The following lot and structure size criteria determine the number of guestrooms allowed:

Table 515-3-9.1 Bed and Breakfast Lot and Structure Size Criteria

Maximum # Guestrooms Permitted	Original Number of Bedrooms	Maximum Gross House Size Not Including Basement in Square Feet	Minimum Zoning Lot Size in Square Feet
1	2	Up to 2,499	7,500
2	3	2,500 – 2,999	10,000
3	4	3,000 – 3,499	10,000
4	5	3,500 – 4,999	15,000
5	6	5,000 up	20,000
6	7	5,000 up	20,000

C. Maximum gross house size is determined by using the total square footage of habitable living space within the structure. The number of original bedrooms in the structure will determine the number of guestrooms that will be allowed. This determination will be made by the Building Official. In the case of a family with children the family's bedroom use must be determined before the number of permitted guestrooms are determined, and no family member must be displaced for a guestroom.

D. Adequate lighting must be provided between the structure and parking areas for safety contiguous to residential structure.

515-3-10 Brew Pub/Brewery (off-sale, on-sale, taproom, tasting room), Cidery, Microdistillery, Cocktail Room

A. **Brew Pub Off-Sale.** A brewer with an off-sale malt liquor license subject to the provisions of Minnesota Statutes 340A and the following:

1. No outdoor storage is permitted.
2. No odors from the brewery facility shall be perceptible beyond the property line. If such odors occur, the brewery facility operator shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.

B. **Brew Pub On-Sale**. A brewer with an on-sale malt liquor license subject to the provisions of Minnesota Statutes 340A and the following:

1. No outdoor storage is permitted.
2. The operation must comply with the requirements of [515-3-26] for Outdoor Dining.
3. No odors from the brewery shall be perceptible beyond the property line. If such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
4. On-site sale of wine or spirits is permitted in accord with Minnesota Statutes and Brainerd City Code XII.

C. **Brewery with Taproom On-Sale.** A brewer with an on-sale brewery taproom license for the "On-Sale" of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statues 340A and the following:

1. No outdoor storage is permitted.
2. The operation must comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.
3. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.

D. **Brewery with Taproom Off-Sale.** A brewer with an off-sale brewery taproom license for the "off-sale" of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:

1. No outdoor storage is permitted.
2. A taproom for malt liquor "off-sale" produced on-site shall require an "on-sale" taproom room license form the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.
4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.

E. **Microdistilleries and Cocktail Rooms.** Subject to the provisions of Minnesota Statutes 340A and the following:

1. No outdoor storage is permitted.
2. A cocktail room shall require an "on-sale" taproom room license form the City of Brainerd, according to the City Code Section XII.
3. Comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.

515-3-11 Bulk Liquid Storage

A. Any Bulk Liquid Storage use must comply with the following minimum standards:

1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
2. A drainage system subject to the approval of the City Engineer shall be installed.
3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
5. All storage tanks shall be located in the rear yard not less than 25 feet from any property boundary lines and setback 150 feet from any adjoining residential zoning district. No tanks shall be permitted in the front yard or side yard abutting public rights-of-way.
6. Storage tanks shall be surrounded by 25 feet of open area. Storage of any kind is prohibited in said open area, except equipment incidental to the storage tank. Approved parking must be set back ten (10) feet from any storage tank.
7. Storage tanks shall be set back from existing structures, as outlined in the Fire Code, based on tank size.
8. All bulk storage plans and processes shall be subject to review and approval of the Fire Department.

9. Storage tanks shall not interfere with site circulation, including but not limited to, parking, driveway, curb cuts, and loading areas.
10. A wire weave/chain link security fence shall be required around all storage tanks. The location of said fence shall be as per the Uniform Fire Code.
11. Storage sites shall be accessible by service and emergency vehicles.
12. All filling values of the storage tanks shall be enclosed and have locking devices.
13. A warning sign shall be required for every tank and shall be placed in a conspicuous location, directly on the tank indicating a supplier's name, address, phone number, that highly flammable and dangerous material is stored therein, and that no smoking requirements must be observed or a sufficient warning to that effect. Said signage may not exceed four (4) square feet.
14. Provisions are made to control and minimize noise, air and water pollution.

515-3-12 Coal, Tar, Creosote, Concrete or Asphalt Processing

A. Any coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing use must comply with the following minimum standards:

1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
2. A drainage system subject to the approval of the City Engineer shall be installed.
3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
5. Provisions are made to control and minimize noise, air and water pollution.

515-3-13 Commercial Car Wash

A. Any Commercial Car Wash, whether principal or accessor use, must comply with the following minimum standards:

1. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence.
2. Stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum 30 minute period and shall be subject to the approval of the City Engineer.
3. Parking or car stacking space shall be screened from view of abutting Residential Zoning Districts.
4. The entire area other than occupied by the building or plantings shall be surfaced with concrete or bituminous, subject to the approval of the City Engineer.
5. The entire area shall have a drainage system which is subject to the approval of the City.
6. All lighting shall be hooded and downcast so that the light source is not visible from the public right-of-way or from an abutting residence.
7. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.
8. Provisions are made to control and reduce noise.

515-3-14 Commercial Day Care Facilities

A. **Purpose and Intent.** The regulation of commercial day care facilities in this Ordinance is to establish standards and procedures by which day care facilities can be conducted within the City without jeopardizing the health, safety and general welfare of the day care participants and/or the surrounding neighborhood. This Section establishes the City's minimum requirements for the establishment of a day care facility which is not defined as a permitted use by State Statute or which are operated in places other than single family homes. Day care facilities defined as permitted uses by State Statutes operate in a single-family dwelling as an accessory use.

B. **Application.** Commercial day care facilities must obtain the required permit as identified on the Appendix A: Table of Uses. In addition to the City regulation, all day care facility operations shall comply with the minimum requirements of the Minnesota Department of Health and Human Services regulations, as may be amended.

C. **Sketch Plan.** All applications for a day care facility shall be accompanied by a Sketch Plan as described in Section [515-5-9] of this Ordinance.

D. **General Provisions.** Day care facilities shall be allowed as a principal use, provided that the day care facilities meet all the applicable provisions of this Section.

1. Lot Requirements and Setbacks. The proposed site for a day care facility must have a minimum lot area as required by the applicable Base Zoning District in which it is located and as determined by the Minnesota Department of Health and Human Services. The City Council may increase the required lot area in those cases where such an increase is considered necessary to ensure compatibility of activities and maintain the public health, safety and general welfare. The day care facility must meet the minimum setback requirements of the respective Base Zoning District. The City Council may increase setback requirements if considered necessary to ensure compatibility.
2. Sewer and Water. All day care facilities shall have access to municipal sewer and water or have adequate private sewer and water to protect the health and safety of all persons who occupy the facility.
3. Screening. A day care facility shall provide screening along any shared property boundaries, regardless of adjacent use.
4. Parking. There shall be off-street parking located separately from any outdoor play area and must comply with all applicable standards.
5. Loading. Off-street loading spaces must be provided.
6. Signage. All signing and informational or visual communication devices shall be in compliance with the provisions of Section [515-3-35] of this Ordinance.
7. Compliance with State Requirements. The building and operation shall be in full compliance with State of Minnesota, Department of Health and Human Services regulations and be licensed accordingly.

E. **Non-Conforming Uses.** Existing day care facilities lawfully existing on the effective date of this Ordinance may continue as non-conforming uses. Any existing day care facility that is discontinued for a period of more than one (1) year, or is in violation of the provisions of the Ordinance, under which it was initially established, shall be brought into conformity with the provisions of this Section.

F. **Inspection.** At any and all reasonable hours, with or without notice, the City hereby reserves the right upon issuing any day care facility a Conditional Use Permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Section, Ordinance, or any conditions additionally imposed.

515-3-15 Commercial Greenhouse

A. Commercial greenhouses supporting the operations of a floral shop or licensed food establishment must comply with the following minimum standards:

1. Structure framing shall be treated wood, aluminum, or steel and shall be covered by materials as regulated by Section [515-4-6] of this Ordinance.
2. Structure shall not exceed 15 feet in height.
3. Structure may be located on a separate lot from the establishment or floral shop it supports provided that:
   a. The lot is within 150 feet of the principal business.
   b. The structure shall meet the setback requirements of the Base Zoning District or 10 feet from all property lines, whichever is greater.
4. No outdoor storage is permitted.
5. Indoor storage shall be limited material incidental to the operation of a greenhouse.
6. Should the establishment or floral shop cease operations, the greenhouse must be removed within 60 days.
7. Sales shall only occur at the principal place of business that is supported by the greenhouse.

515-3-16 Commercial Riding Stables

A. Commercial riding stables must comply with the following minimum standards:

1. Minimum lot size shall be 20 acres.
2. Any building in which animals are kept, whether roofed shelter or enclosed structure, must be located a minimum of 300 feet of more from any lot line.
3. The animals shall, at a minimum, be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than 100 feet from a lot line.
4. Compliance with all applicable Minnesota Pollution Control Agency rules.
5. Compliance with all other applicable State and local regulations pertaining to nuisance, health and safety conditions, etc.

515-3-17 Drive-through Business

A. Any drive-through, whether principal or accessory, business must comply with the following minimum standards:

1. A minimum of 120 feet of segregated automobile stacking must be provided for a single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to 60 feet per lane.
2. The stacking lane and its access must be designed to control traffic in a manner to protect the buildings and will not interfere with on-site traffic circulation or access to the required parking space.
3. No part of the public street or boulevard may be used for stacking of automobiles.
4. The stacking lane, order board intercom, and window placement shall be designed and located in such a manner as to minimize glare to abutting premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.
5. The drive-up window and its stacking lanes shall be screened from view of abutting Residential Zoning Districts and public street rights-of-way.
6. A lighting and photometric plan will be required that illustrates the drive-up service lane lighting and must demonstrate compliance with this Ordinance.

515-3-18 Essential Services

A. **Purpose and Intent.** The purpose of this Section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines, substations and related structures in such a manner that

the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

B. **Application.** All telephone lines, pipelines for local distribution, underground transmission lines, overhead electric transmission lines less than 33 KV, and related structures, which are extended to serve more than one (1) parcel and are proposed to be installed at locations other than in public right-of-way, must obtain the appropriate permit as identified on the Appendix A: Table of Uses. Approval by the City shall be based upon the information furnished in the procedural requirements as outlined in the following Section.

C. **Installation Requirements.**

1. Prior to the installation of any of the previous essential services, the owner of such service shall file with the City, all maps and other pertinent information as deemed necessary for the City to review the proposed project.
2. The Zoning Administrator shall review and provide recommendations regarding the project's relationship to the Comprehensive Plan and/or Ordinances and parts thereof.
3. In considering applications for the placement of essential services, as regulated in this Section, the Zoning Administrator shall consider the effects of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan. In addition, the following specific performance standards shall be reviewed as they may apply to the application:
   a. *Setbacks.* The proposed essential service shall meet required accessory setbacks for the respective zoning district.
   b. *Parking.* If deemed necessary by the Zoning Administrator, the site must provide for required off-street parking in conformance with Section [515-4-12] of this Ordinance.
   c. *Building Materials.* The essential service buildings must be constructed with exterior building facades that maintain a high standard of architectural and aesthetic compatibility with surrounding properties and in compliance with standards of this Ordinance.
   d. *Screening and Landscaping.* Screening and landscaping from neighboring property shall be provided in accordance with Section [515-4-9 and 515-4-10] of this Ordinance.
   e. *Site Access.* Direct lot access from major collector or arterial streets shall be discouraged and where possible, be provided access through shared access arrangement from an existing curb cut and driveway or a neighboring use. Direct lot access from a minor collector or local street may be allowed, provided the curb cut access complies with the standards outlined in Section [515-4-12] of this Ordinance.
   f. Unless otherwise approved by Zoning Administrator, all equipment shall be completely enclosed in a permanent building with no outside storage.
4. If the Zoning Administrator denies issuance of the requested Administrative Permit, the applicant may appeal said decision to the Board of Zoning Appeals under the rules and procedures as set forth in Section [515-5-11] of this Ordinance.

D. **Application.**

1. All receiving or transmission facilities (i.e., facilities not required for local distributing network) and overhead transmission and substation lines in excess of 33 KV must obtain the appropriate permit as identified on the Appendix A: Table of Uses. The following requirements shall apply and accompany any permit application in addition to the permit requirements established in Section [515-5-2]:
   a. Adherence to all applicable Federal Aviation Administration (FAA) and State performance standards.
   b. The performance standards as specified in this Section are adhered to.

c. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon initial approved plans shall require the appropriate permit amendment.

2. Lots reserved specifically for essential services, whether of record, or newly subdivided, may be less than the specified dimensions of the applicable Zoning District under the following stipulations:

a. The lot is of sufficient dimensions to allow the setbacks from all property lines to be equal to height of the various structures on the parcel or the setback requirements of the district, whichever are greater. Lesser structure setbacks may be allowed by the City Council upon demonstration that the facility's design is such that the collapse of said structure will not endanger surrounding property. In no case shall the setbacks be reduced to less than that required by the individual districts.

b. Applications for subdivision of new lots under this provision are accompanied by the appropriate permit applications.

c. A restrictive covenant, removable by the City, is recorded against a parcel which prohibits any sale, transfer, or use other than for an essential service as defined in the City ordinances so long as the parcel is substandard in size, according to the applicable Zoning Districts.

d. In the event of abandonment of the essential service for any reason on the substandard lot, all equipment, structures, cables, buildings or any other improvements to the property shall be removed from said property within a period of three (3) months. At the end of three (3) months, if the above listed items have not been completely removed, the City may enter said property and remove any of the above listed items and improvements and charge said costs to the owner(s) of the property, and any such unpaid charge shall be a lien against the affected property, including any and all administrative, legal and other fees expended by the City in enforcing this provision.

e. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon approved initial plans shall require a permit amendment.

515-3-19 Home Businesses

A. **Purpose and Intent.** The purpose of this Section is to provide specific standards for Home Businesses not meeting the criteria as established in Subsection [D]. The intent of the standards and regulations is to minimize potential adverse impacts to the surrounding neighborhood.

B. **Application.** Subject to Section [515-5-10], Non-Conforming Lots, Buildings, Structures and Uses, and other applicable sections of this Ordinance, all occupations and businesses conducted in a home or in a residential accessory building shall comply with the provisions of this Section. This Section shall not be construed, however, to apply to home businesses and businesses related to farming operations.

C. **Procedures.**

1. Home Business – Permitted. Any Home Business meeting the criteria established in Subsection [D] shall be permitted, and is not subject to any special permits.

2. Home Business – Administrative Permit. Any proposed Home Business not meeting the criteria established in Subsection [D] shall be required to obtain an Administrative Permit as shown on the Appendix A: Table of Uses.

D. **Requirements-General Provisions.**

1. Criteria for Permitted Home Businesses. The following criteria is established for permitted Home Businesses. All criteria must be met, or an Administrative Permit is required.

a. The occupation or profession must be lawful and conducted within the Principal Dwelling Unit.

i. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barbershops, beauty shops, or similar uses. Only articles made or services originating on the premises may be sold on the premises.

ii. The owner, if different than the Home Business operator, must provide written approval of the operations of the business.

b. Other than signs permitted in residential districts, evidence of the occupation shall not be visible from any public right-of-way . Evidence includes, but is not limited to, outdoor storage of materials, equipment or merchandise.

c. No traffic shall be generated by such Home Business in greater volume than would normally be expected to a residence in a residential neighborhood, and the driveway or alley access shall be designed accordingly. On-site parking area shall not exceed two (2) stalls and shall not be located in any required yard setback area. Any off-street parking area must be screened from any adjacent residential use.

d. No equipment, activity, or process shall be used in such Home Occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of the lot; and such use must not endanger the health and safety of the occupants or neighborhood residents.

e. No accessory building shall be used for a Home Business.

f. Entrance to the Home Business shall be gained from within the principal building. Not more than twenty-five (25) percent of the gross floor area of the residence shall be used for this purpose.

g. A person having a Home Business shall provide proof of meeting the above requirements if complaints are received by the City Council.

2. Home Business not meeting any of the criteria established in (1).

a. Any proposed Home Business not meeting the criteria established in 1., must obtain an Administrative Permit, which may include reasonable conditions to protect the health and safety of the surrounding neighborhood.

b. The proposed Home Business must be identified as a permitted home business type in item D.1.a.i.

c. The proposed Home Business must be accessory to the principal residential use, and the owner of the business must be an occupant of the subject property.

d. Any lawful occupation or profession engaged within a dwelling unit by the property owner and/or occupant which involves any of the following:

i. The storage of stock-in-trade incidental to the performance of the service.

ii. Repair or manufacturing which requires equipment other than that customarily found in a home.

iii. The employment on the premises at any one time, of not more than one (1) person who is a non-resident of the premises.

iv. The need for more than two (2) parking spaces, but not exceeding four (4) parking spaces, in addition to spaces required for the persons residing on the premises.

e. Only articles made or services provided on the premises may be sold on the premises.

f. An attached garage and/or an accessory building may be used..

g. The Home Business may not include over-the-counter sales of merchandise produced off the premises.

h. All such occupants shall obtain written approval of the property owner and provide evidence of such approval at the time of an application for an Administrative Permit.

i. The Administrative Permit may include conditions that require the expiration of the Permit upon the sale of the property, change in tenancy of the property, or an event or date as established by the Zoning Administrator.

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E. **Inspection.** The City hereby reserves the right upon issuing any Home Business Administrative Permit to inspect during reasonable hours, without notice, the premises in which the occupation is being conducted to ensure compliance with the provisions of this Section and any conditions additionally imposed.

F. **Revocations.**

1. Any Home Business Administrative Permit shall remain in effect until:
   a. Such time as the business is not in compliance with any portion of this Ordinance, or any applicable State or Federal regulation.
   b. Such time that there is a violation of the terms and conditions of the permit approval.
   c. Such time as there is a change in the conditions of operation of the business as it was originally approved; including any changes in the nature of the business, any substantial change in the extent of business, any expansion of business facilities, or any other circumstances related to the business which have the potential to significantly effect surrounding properties, or which may pose a threat to the health, welfare or safety of the general public.
   d. Such time as the license or permit expires.
2. At such time that the City has cause to believe that any of the events listed in a.-d. above have taken place, the City shall immediately notify the permit holder and owner, if different than the operator, of the allegations of violation and the necessary corrections required to bring the Administrative Permit into compliance.

515-3-20 Hospitality Business – Hotels, Motels, Conference Centers

A. Any hotel, motel, conference/convention/reception facility must comply with the following minimum standards:

1. The hospitality business shall maintain daily written records reflecting the renting, letting, or other provisions of any of its rooms including check in and check out dates of each person over 18 years of age that rents, lets or is otherwise provided a room or occupies a room on an overnight basis. Such records shall be made available to the City of Brainerd upon request.

B. Any extended stay hotels and motels must comply with the following requirements:

1. The City of Brainerd will be notified prior to becoming an extended stay facility.
2. Stays are limited to 90 consecutive days.
3. All guest rooms which have facilities for both storage and food preparation less than 300 square feet of floor area are limited to a maximum of two (2) persons per room; however, for all such guest rooms greater than 300 square feet, one additional person shall be allowed per each 75 square feet of floor area up to a maximum of four (4) persons.
4. Kitchen facilities including a stove and oven are provided.

515-3-21 Mini Self-storage

A. Any mini self-storage business must comply with the following minimum standards:

1. A minimum of 25 percent of the site must be open green space and landscaped in accordance with a plan approved by the City Council.
2. No buildings shall be located closer than 25 feet to each other to allow for parking, loading, driveway, and fire lanes.
3. No single building shall be greater than 150 feet in length.
4. All structures are to be within 200 feet of a fire hydrant.

5. All driveways and parking areas are to be hard (blacktop or concrete) surfaced and adequate turning radius for fire truck maneuverability is to be maintained throughout the site. Designated snow storage space is to be provided to ensure adequate and safe access during winter months.
6. Any structures having exposure to an abutting residential use, Residential Zoning District or public right-of-way, park, or similar public use areas shall be of vinyl, brick, natural stone, wood, or stucco facing material.
7. No retailing, wholesaling, manufacturing, repair, or other such activity other than storage is to occur within the self-storage, mini warehousing facility.

515-3-22 Mining and Extraction

A. **Purpose and Intent.** The purpose of this Section is to control mining, extraction, gravel and land reclamation operations so as to minimize conflicts with adjacent land uses and to ensure that the mining area is restored at the completion of the mining operation. Any lot or parcels upon which four hundred (400) cubic yards or more of material is moved or deposited shall require an Interim Use Permit as regulated by Section [515-5-3] of this Ordinance.

B. **Administration.**

1. Permit Review. The appropriate permit as identified on the Appendix A: Table of Uses must be obtained The City Council may also require a Performance Bond or some other form of financial guarantee from the landowner to ensure that the conditions in this Section are met.
2. The following operations shall be covered by this Section.
   a. The removal, crushing, washing, refining, borrowing, or processing of material. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site.
   b. The manufacture of concrete building blocks or other similar blocks, if conducted on the site, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operations.
3. Renewal of Mining Permits. As a part of the Interim Use Permit, renewal dates for the mining operation may be included if agreed upon by the applicant and the City in order to monitor the progress of the mining operation. All property owners and residents within 350 feet of the mining operation shall be notified of a proposed Mining Permit renewal request.

C. **Information Requirement.** The person or agency requesting the permit shall provide the following information in addition to the information required for a Conditional Use Permit as regulated by Section [515-5-2] of this Ordinance:

1. Name and address of person or agency requesting the Mining Permit.
2. The exact legal property description and acreage of area to be mined.
3. The following surveys of the entire site and including all areas within 350 feet of the site. All surveys shall be drawn at a scale of one (1) inch to 100 feet unless otherwise stated below:
   a. *Survey A - Existing conditions to include*:
      i. Contour map (two (2) foot intervals).
      ii. Existing vegetation.
      iii. Existing drainage and permanent water areas.
      iv. Existing structures and existing wells.
   b. *Survey B - Proposed operations to include*:
      i. Structures to be erected.

ii. Location of sites to be mined showing depth of proposed excavation.

iii. Location of tailings deposits showing maximum height of deposits.

iv. Location of stationary machinery to be used in the mining operation.

v. Location of storage of mined materials, showing maximum height of storage deposits.

vi. Location of vehicle parking, access roads and local routes to truck routes.

vii. Location of storage of explosives erosion and sediment control structures.

c. *Survey C - End use plan to include*:

i. Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.

ii. Location and species of vegetation to be replanted reclamation staging plan.

iii. Demonstration of future street access as provided for by the Comprehensive Plan.

iv. Demonstration of future utility access and extension locations.

v. Description of future land use plan consistent with the Comprehensive Plan and site's ability to accommodate such future uses.

4. A soil erosion and sediment control plan.

5. A plan for dust and noise control.

6. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation, location and approximate acreage of each stage, and time schedule for reclamation.

7. Any other information requested by the Planning Commission or City Council.

D. **Performance Standards.** For such operations approved after the date of adoption of this Ordinance:

1. General Provisions. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to minimize seeding on adjacent property. All equipment used for mining and extraction operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises, dust and vibrations adversely affecting the surrounding property.

2. Water Resources. The mining operation shall be conducted in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the mining operation.

3. Safety Fencing. Safety fencing may be required around all or portions of the mining operation at the discretion of the City Council.

4. Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety as determined by the City.

5. Screening Barrier. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties. A screening barrier may also be required between the mining site and any public road located within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees.

6. Setback. Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than one hundred (100) feet to any residential, commercial or industrial structures. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zoning district where such operations are not permitted. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be

conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

7. Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dilapidated.
8. Hours of Operation. All mining operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The City Council may allow operations at other hours if it can be demonstrated that the additional hours are necessary and are not detrimental to surrounding properties.
9. Access Roads. All access roads from mining operations to public highways, roads or streets or to adjoining property shall be paved or surfaced to minimize dust considerations.
10. Lighting. All exterior lighting shall be consistent with the requirements as outlined in Section [515-4-8] of this Ordinance.

E. **Land Reclamation.** All mining sites shall be reclaimed immediately after mining operations cease. Reclamation shall be complete within one (1) year, unless otherwise approved by the City Council. The following standards shall apply:

1. Within a period of three (3) months after the final termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of an Interim Mining Permit, all buildings, structures and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator. A temporary deferment may be granted by the City Council for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such deferment may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
2. The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen (18) percent in grade.
3. Reclamation shall begin after the mining of twenty-five (25) percent of the total area to be mined or four (4) acres whichever is less. Once these areas have been depleted of the mine deposit they shall be sloped and seeded as per the preliminary mining plan.
4. Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least six (6) inches. The topsoil shall be seeded, sodded, or planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.
5. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site and shall be consistent with the end use plan.

515-3-23 Model Homes

A. **Purpose and Intent.** The purpose of this Section is to permit the construction of a Model Home for purpose of marketing a new development in the City. A Model Home is permitted with the following conditions:
   1. A Model Home may only be constructed after the final approval of a subdivision or Planned Unit Development.
   2. The final Development Agreement must address and include any special conditions for any Model Home used for the promotion of the development.

515-3-24 Motor Vehicle Fuel Sales

A. Any business with Motor Vehicle Fuel Sales, whether principal or accessory, must comply with the following minimum standards:

1. Installation must comply with State and City standards. Adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
2. A minimum lot area of 40,000 square feet and minimum lot frontage of 100 feet is required.
3. Architectural standards must comply with the applicable standards for commercial design construction.
4. A protective canopy structure may be located over the pump island(s) as an accessory structure. The canopy shall meet the following performance standards:
   a. The edge of the canopy shall be 20 feet or more from the front and/or side lot line, provided that adequate traffic visibility both on-site and off-site is maintained.
   b. The canopy shall not exceed 18 feet in height and must provide 14 feet of clearance to accommodate a semi-trailer truck passing underneath.
   c. The canopy fascia shall not exceed three (3) feet in vertical height.
   d. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy. Total canopy illumination may not exceed 115 foot candles below the canopy at ground level. The fascia of the canopy shall not be illuminated.
   e. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
5. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
   a. The canopy signs do not exceed more than 20 percent of the canopy façade facing a public right-of-way.
   b. The canopy fascia shall not be illuminated except for permitted canopy signage.
   c. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
6. Pump islands must comply with the following performance standards:
   a. Pump islands must be elevated six (6) inches above the traveled surface of the site.
   b. All pump islands must be set at least 30 feet back from any property line. Additionally, the setback between the pump islands curb face must be at least 24 feet.
7. Circulation and Loading. The site design must accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas must be exclusive of off-street parking stalls and drive aisles. A site plan must be provided to illustrate adequate turning radius, using appropriate engineering templates.
8. Pedestrian Traffic. An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk must be a minimum of five (5) feet wide and clear of any obstacle or impediment. The pedestrian sidewalk may be reduced to a minimum of three (3) feet wide and clear of any obstacle or impediment when segregated from parking or drive aisles by a physical barrier that prevents vehicles from overhanging the pedestrian sidewalk.
9. Noise. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in the Brainerd City Code.

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515-3-25 Nursing Homes

A. Nursing homes and similar group housing, not including hospitals, must comply with the following minimum standards:

1. Side yards must double the minimum requirements established in the Base Zoning District.
2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic that will be generated from the site.
3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.

515-3-26 Outdoor Dining

A. Any outdoor dining facilities accessory to a restaurant must comply with the following minimum standards:

1. The applicant must submit a Sketch Plan and any other information that clearly demonstrates the location and type of all tables, refuse receptacles, and wait stations.
2. Access to the outdoor dining area must be provided only through the principal building.
3. The dining area must screened from view from abutting Residential Zoning Districts.
4. All lighting be hooded and downcast away from adjacent residential uses.
5. The applicant must demonstrate that pedestrian circulation is not disrupted as a result of the outdoor dining area by providing the following:
   a. Outdoor dining area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods, and shall be subject to review and approval by the City Council.
   b. Minimum clear passage zone for pedestrians at the perimeter of the restaurant shall be at least five (5) feet without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, street lights, parking meters, or the like.
   c. Overstory canopy of trees, umbrellas or other structures extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven (7) feet above sidewalk.
6. The dining area is surfaced with concrete, bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.
7. A minimum width of 36 inches shall be provided within aisles of the outdoor dining area.
8. Storage of furniture shall not be permitted outdoors between November 1 and March 31. Outdoor furniture that is immovable or permanently fixed or attached to the sidewalk shall not be defined as Outdoor Storage between April 1 and October 31st.Any immovable or permanently fixed or attached furniture must be approved as part of the Administrative Permit.
9. Additional off-street parking may be required pursuant to the requirements set forth in Section [515-4-12] based on the additional seating area provided by the outdoor dining area.
10. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation, and shall be designed to prevent spillage and blowing litter.

B. The following additional minimum standards are established for any non-enclosed areas for dining and/or serving alcohol when accessory to a restaurant and/or bar:

1. To deter the free passage of any person or substance beyond the barriers of the non-enclosed areas, a barrier at a minimum of thirty-six (36) inches made of wood, vinyl, wrought iron, brick or natural stone, planter or other approved material shall be provided.

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2. Barrier openings shall be spaced such that visibility is allowed but the passage of an alcoholic beverage through an opening to a person that is not within the non-enclosed area is prohibited.
3. The primary access and egress will be from the main premises or structure and no other access or egress will be allowed other than those required as emergency exits. The outdoor sale area will be defined or structurally constructed so as to prohibit the free passage of any person or substance beyond said area.
4. Smoking in the area, if allowed by the business owner, is permitted provided the area is in compliance with the Minnesota Freedom to Breathe Act of 2007.
5. The Building Official shall review the suitability of the area in light of the applicable fire, building, and life safety codes and the adequacy of the proposal to provide for the safety of persons on the premises.
6. There shall be no amplified live music allowed in the area except in the case of Special Event, which requires a permit from the City. Music shall be kept to a level that is not intrusive to surrounding property.
7. All licenses required for serving alcohol specified in city code Chapter XIII shall be obtained.

515-3-27 Outdoor Service, Sale and Rental

A. Any outdoor services, sale and rental use must comply with the following minimum standards:

1. Outside services, sales and equipment rental connected with the principal use is limited to fifty (50) percent of the gross floor area of the principal use.
2. Outside sales areas are fenced and screened from view of neighboring properties and any public rights-of-way.
3. All lighting shall be hooded and downcast so that the light source shall not be visible form the public right-of-way or neighboring properties.
4. Any dedicated sales area shall be hard surfaced to control dust and drainage.
5. Additional standards in Town Center (TC) and Main Street (MS) Zoning Districts.
   a. Outside services, sales, and equipment rental accessory to the principal use and limited in area to fifteen (15) percent of the gross floor area of the principal building or fifteen (15) percent of the tenant bay if it is a multiple tenant building. Outside service, sales and rental area must be located on private property and shall not intrude on the public sidewalk or boulevard.

515-3-28 Outdoor Storage

A. **Purpose and Intent.** This Section is intended to provide regulations for outdoor storage on properties in the City. The purpose of the regulations is to ensure that any outdoor storage is not a hazard to the public health and safety, does not impair scenic views, or constitute a nuisance.

B. **General Provisions.**

1. The City Council may order the owner of any property to cease or modify outdoor storage uses, including existing uses, provided it is found that the use constitutes a public nuisance, as described in the Brainerd City Code.
2. Outdoor Storage is as regulated by the Appendix A: Table of Uses. Outdoor storage is not permitted in any Residential Zoning District.
   a. In all Residential Zoning Districts, all materials, equipment and personal property shall be stored within a building or be fully screened so as not to be visible from abutting properties or right-of-way, except for the following:
      i. Clothes lines.
      ii. Recreational equipment (does not include recreational vehicles).

iii. Construction and landscaping materials or equipment currently being used on the premises (within a period of one (1) year).

iv. Agricultural equipment and materials currently being used on the premises (within a period of one (1) year).

v. Rear or side yard storage of firewood for the purpose of consumption only by the person or persons residing on the premises.

vi. Off-street parking of licensed and operable passenger automobiles and pick-up trucks (does not include racing cars or stock cars) may be stored in the front yard on a designated driveway or parking area.

vii. One (1) licensed fish house may be stored in the rear yard provided it meets the accessory building setbacks identified in the Base Zoning District. Fish houses used as storage buildings shall be treated as an accessory building and count against the number and floor area limits for the lot.

C. **Non-Residential Zoning Districts.**

1. All exterior storage shall be fully screened so as not to be visible from abutting properties and rights-of-way. All outdoor storage shall follow the standards as established Section 515-4-10.G. for screening of Parking Lots.
2. Screening shall be required except for the following:
   a. Merchandise being displayed for sale in accordance with zoning district requirements.
   b. Materials and equipment currently being used for landscaping or construction on the premises (within a period of one (1) year).
3. The storage area does not take up parking space or loading space as required for conformity to this Ordinance.
4. The storage area is fenced and secured.
5. The storage area is paved or surfaced to control dust and erosion.
6. All parking, loading and truck staging activities shall occur on site. On-street parking and loading associated with the use is prohibited.
7. Noises emanating from the use are in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations MPC 7030.
8. Outdoor storage accessory to a principal use is permitted with the following additional minimum standards:
   a. The storage area is landscaped and screened from view of neighboring uses, residential zoning districts, and public rights-of-way per Section 20 of this Ordinance.
   b. Storage area is fenced in a manner approved by the City.
   c. Storage area is paved or surfaced to control dust and erosion.
9. All lighting shall be in compliance with Section 18 of this Ordinance.
   a. The storage area does not take up parking space or loading space as required for conformity to this Ordinance and not in front yards.
   b. The storage area shall not abut property zoned for residential, rural, or business use, including land in a neighboring township or city. "Abutting" includes across a street. "Abutting" does not include properties that touch only corner to corner.
   c. The storage area shall not abut a school or a public park.
   d. The ratio of storage area to building footprint shall not exceed three and one-half to one (3.5:1).

e. Storage shall not include material considered hazardous under Federal or State Environmental Law.

515-3-29 Outdoor Woodburning Furnaces, Placement and Operation

A. The placement of any outdoor woodburning furnace must comply with the following minimum standards:

1. Outdoor wood burning furnaces shall be located at 25 feet from all property lines.
2. The outdoor wood burning furnace shall be located on a property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance for combustible materials.
3. The outdoor wood burning furnace shall be located at least 100 feet from any building that is not served by an outdoor wood burning furnace.
4. The chimney height of any new outdoor wood burning furnace shall extend at least two (2) feet above the peak of any building not served by an outdoor wood burning furnace within 300 feet.

515-3-30 Parking Lots

A. Any parking lot not located on the same lot as the Principal Structure must comply with the following minimum standards:

1. The parking lot shall be adjacent to or across an alley from a Base Zoning District that permits or conditionally permits the principal use served by the parking lot.
2. The parking lot parcel(s) shall be no wider than the boundary line of the primary parcel on which the associated use is located.
3. Overnight parking will be limited to vehicles owned and operated by the business associated with the principal use.
4. Alley improvements desired by the adjacent property owner shall be approved by the City of Brainerd and improved at the requesting party's expense.

515-3-31 Recreational Vehicle Storage and other Temporary Vehicles

A. Recreational vehicles may not be used for the storage of items in conjunction with a residential, business, commercial or industrial enterprise.

1. Recreational vehicles may not be used as a residence, accessory dwelling unit, office or business on any residential lot.

B. Temporary trailers and facilities generated by public service agencies (bookmobiles, bloodmobile, construction trailers, etc.) are a permitted use by Administrative Permit, provided that:

1. The facilities are located in a manner that does not interfere with existing traffic patterns.
2. The proposed temporary use is compatible with existing surrounding land uses.
3. The request has a specific term for placement and removal, subject to approval by the Zoning Administrator.

C. Temporary real estate sale/rental trailers or offices may be allowed by Interim Use Permit, provided that:

1. The temporary trailer/office is located on the site of an approved project or subdivision.
2. The temporary trailer/office meets all required setbacks of the underlying zoning district.
3. The temporary trailer/office provides adequate parking in accordance with Section [515-4-12] of this Ordinance.
4. The site is landscaped in a manner that enhances the trailer/office subject to the approval of the Zoning Administrator.

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5. The applicant shall provide a schedule for the removal of the trailer and reclamation of the site consistent with the approved Sketch Plan or subdivision.

D. **Recreational Vehicle Storage.** Recreational vehicles, as defined by Section [515-6-2] of this Ordinance, may be parked or stored on residential properties provided that:

1. The vehicles are property of the person or persons residing on the premises.
2. The vehicles are licensed and operable.
3. The vehicles are stored no closer than five (5) feet from side or rear lot lines.
4. Vehicles located in the front yard are parked on designated driveways or parking areas surfaced in compliance with Section [515-4-12] of this Ordinance.
5. Vehicles located in the front yard or side yard abutting a street shall not encroach on any public right-of-way, sidewalk or trail.
6. In any yard, vehicles may not be placed within ten (10) feet of the living quarters of the principal building on the adjacent lot.
7. A camper or recreational vehicle brought by a visitor may be parked or occupied for a period not to exceed thirty (30) days while visiting the resident of the property.

E. **Storage on Vacant Lots.** In all residential and commercial zoning districts, a vacant noncontiguous lot or parcel shall not be used for storage or parking

515-3-32 Refuse/Garbage Collection, Recycling and Incineration

A. Any refuse/garbage collection, recycling or incineration uses must comply with the following minimum standards:

1. The storage of refuse or garbage in any front yard is prohibited.
2. Vehicle parking and storage areas are screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
3. Vehicle parking/storage areas shall be hard surfaced with a bituminous material with curb and gutter to control dust and shall be screened from view of neighboring uses and public rights-of-way.
4. The site shall be maintained free of litter and any other undesirable materials and will be cleaned of loose debris on a daily basis.
5. All in bound and out bound trucks and equipment, excluding employees' personal vehicles, shall be restricted to designated routes established by the City, except for times when providing collection service to customers within the City limits.
6. The hours of operation shall be limited as necessary to minimize the effects of nuisance factors such as traffic, noise, and glare upon any existing neighboring residential uses, or residential zoning districts.
7. Provisions are made to control and minimize noise, air and water pollution.

515-3-33 Senior Housing

A. Any Senior Housing building or use must comply with the following minimum standards:

1. Not more than twenty (20) percent of the occupants may be persons 55 years of age or younger.
2. To continue to qualify for the senior housing classification, the owner or agency shall annually file with the City Clerk and/or the Zoning Administrator a certified copy of a monthly resume of occupants, listing the number of tenants by age and clearly identifying all occupants age fifty-five (55) or under.

3. Parking areas shall be screened and landscaped from view of surrounding and abutting Residential Zoning Districts.
4. Elevator service must be provided to each floor of the building.
5. A minimum of 20 percent of the gross lot area must be dedicated as usable open space.

515-3-34 Short-Term Rentals

A. Any short-term rental must comply with the following minimum standards:

1. The maximum rental period shall not be more than 28 consecutive nights.
2. The permit holder (owner) of a short-term rental must apply for and receive an Interim Use Permit.
3. The application for an Interim Use Permit shall include:
   a. The number of bedrooms with dimensions and all other sleeping accommodations.
   b. The number of off-street parking spaces available to guests.
   c. All accessory structures and outdoor recreational features available for guest use.
   d. A pet, garbage, noise, and parking policy.
   e. The permit holder shall post emergency contact information (police, fire, hospital) and show renters the location of fire extinguishers in the short-term rental unit.
4. A permit holder must disclose in writing to their renters the following information regarding property policies and City codes:
   a. **Contact Information**. The managing agent or local contact's name, address, and phone number. The agent shall be available 24 hours a day, seven days a week, whenever the property is being rented. Property contact information will be accessible to the public at all times on the City of Brainerd website.
   b. **Occupancy**. The maximum number of guests allowed on the property.
   c. **Vehicles**. The maximum number of vehicles, recreational vehicles, and trailers allowed on the property and where they are to be parked. Parking in a yard that fronts a street as well as along an interior side of a house is required to be on an improved surface. Recreational vehicles shall not be parked in any right-of-way or utility easement. No vehicle or trailer shall be parked on a street for a period of time in excess of forty-eight (48) continuous hours.
   d. **Garbage**. Garbage and refuse containers shall be placed out for collection no earlier that 6:00 P.M. the day before collection and removed by the end of the day of collection. Garbage shall be placed in fly tight containers sufficient to receive all garbage which may accumulate between times of collection.
   e. **Noise**. No person shall, between the hours of 10:00 P.M. and 7:00 A.M. congregate at, or participate in the any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person.
   f. **Pets**. No person shall keep, maintain, or otherwise house more than a total of four cats or dogs within any household in the City of Brainerd. In shall be unlawful for any person to allow a dog or cat to run at large and to keep or harbor a dog that habitually barks, yelps, howls, cries, or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The owner of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner.
5. The occupancy of a short-term rental shall be limited to not more than 3 people per bedroom or the occupancy set by the Building Official, whichever is less.

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6. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the building department, whichever is stricter.
7. The short-term rental shall be connected to city sewer and water or an approved septic system. A valid septic system certificate of compliance is required at the time of rental license issuance and annual renewal. A short-term rental shall have a full bathroom (sink, toilet, and tub or shower).
8. Additional occupancy by use of recreational vehicles, tents, accessory structures or fish houses is not permitted.
9. The permit holder shall keep a report, detailing use of the short-term rental by recording the full name, address, phone number and vehicle license number of the guest reserving the rental. A copy of the report shall be provided to the Zoning Administrator upon request.
10. A short-term rental shall be a licensed rental unit by the city and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to the City of Brainerd's rental housing maintenance code. Each unit shall be inspected annually by the rental housing inspector and the Fire Marshall.
11. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety and safety of renters. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.
12. A permit holder must post their rental license permit number on all print, poster or web advertisements.
13. It is the owner's responsibility to apply for state and local sales tax numbers, including hotel and motel use sales tax. It is the owner's responsibility to contact the Minnesota Department of Health about lodging license requirements.

515-3-35 Signs

A. **Findings, Purpose, and Intent.** It is not the purpose or intent of this Sign Ordinance to regulate the message displayed on any sign, nor is it the purpose or intent of this Ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this Ordinance is to:

1. The City Council hereby finds as follows:
   a. Signs provide an important medium through which individuals may convey a variety of messages.
   b. Exterior signs have a substantial impact on the character and quality of the environment.
   c. Signs can create traffic hazards, aesthetic concerns, and detriments to property values, thereby threatening the public health, safety, and welfare.
   d. As defined by Section [515-6] of this Ordinance, a sign is any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
   e. The City's zoning regulations have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.

2. The purpose and intent of this Ordinance is to:
   a. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the City in order to promote the public health, safety, and welfare.
   b. Maintain, enhance, and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.
   c. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
   d. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.

B. **Effect.** A sign may be erected, mounted, displayed, or maintained in the City if it is in conformance with the provisions of this Ordinance. The effect of this Ordinance, as more specifically set for herein, is to:
   1. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this Sign Ordinance.
   2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this Sign Ordinance.
   3. Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment and where the communication can be accomplished by means of having a lesser impact on the environment and the public health, safety, and welfare.
   4. Provide for the enforcement of the provisions of this Sign Ordinance.

C. **Severability.** If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this sign Ordinance. The City Council hereby declares that it would have adopted the sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

D. **Permit Required.** No sign shall be erected, altered, improved, reconstructed, maintained, or moved in the City without first securing a Sign Permit from the City:
   1. The content of the message or speech displayed on the building and/or sign shall not be reviewed or considered in determining whether to approve or deny a Sign Permit.
   2. Application for an Administrative Permit shall be filed by the property owner or designated agent with the City on forms to be provided by the City.
   3. Application for a Permit shall contain the following information unless waived by the City:
      a. Names and addresses of the applicant owners of the sign and lot.
      b. Address at which any signs are to be erected.
      c. Lot, block, and addition at which the signs are to be erected and the street on which they are to front.
      d. Type and size of sign (e.g., wall sign, pylon sign, monument sign).
      e. A Sketch Plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs, and any other physical features.
      f. Inventory of existing on-site signage (size, height, location).
      g. Plans, location and specifications and method of construction and attachment to the buildings or placement method of the ground.
      h. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and Ordinances of the City.

i. Written consent of the owner or lessee of any site on which the sign is to be erected.

j. Any Electrical Permit and/or Building Permit required and issued for the sign.

k. A detailed description of any electronic or electrical components that are proposed to be added to the sign.

l. Other information to demonstrate compliance with this and all other Ordinances of the City.

4. The Sign Permit application shall be accompanied by a fee. Fees for the review and processing of Sign Permit applications shall be imposed in accordance with the fee schedule established by City Ordinance.

5. The City shall notify the applicant, in writing, of an incomplete application within fifteen (15) days of the date of submission.

6. The City shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, Ordinances and applicable performance standards set forth in this Ordinance within sixty (60) days of submission of a complete application pursuant to MN State Statutes Section 15.99. If the work that is authorized under a permit has not been completed within sixty (60) days after the date of issuance, the permit shall be null and void.

7. All signs, including electric wiring, supporting structure, guy wires or chains, shall be properly maintained and kept in safe condition. A sign or sign structure which is deteriorated, unsafe, defaced or otherwise altered shall be repaired, repainted, or replaced by the permit holder or property owner on which the sign is located.

E. **Permit Not Required.** The following signs shall not require a permit and are allowed in addition to those signs allowed by Section [J] of this Subsection. These exemptions however shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance and its compliance with the provisions of this Ordinance or any other law or Ordinance regulating the same.

1. The changing of the display surface on an existing sign.

2. Signs, subject to the following:

a. Signs shall only be located on private property with the permission of the property owner.

b. Signs shall be placed no less than fifteen (15) feet from the back of the curb and shall not be within the sight visibility triangle or located within the Right-of-Way.

c. Ground mounted signs shall not exceed six (6) square feet in area and shall not exceed three (3) feet in height.

d. No more than two (2) ground mounted signs and two (2) flags are allowed per property.

i. Additional signs are permitted beginning forty-six (46) days before the State primary in a State general election year until ten (10) days following the State general election, and ninety-one (91) days prior to any special election until ten (10) days following the special election.

e. Signs shall not be illuminated.

3. One (1) temporary off-premises sign on private property six (6) square feet or less in size, not to exceed three (3) feet. Temporary signs shall be allowed for a period of seven (7) days.

4. Signs located within the public right-of-way are regulated by Chapter [VIII] of the City Code.

5. Official signs.

F. **Prohibited Signs.** The following signs are prohibited:

1. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

2. All signs over three hundred (300) square feet in area.
3. All off-premises signs greater than six (6) square feet in area.
4. Changeable copy signs, except as specifically allowed by Subsection [J].
5. Content classified as "obscene" as defined by Minnesota State Statutes Section [617.241].
6. Flashing or rotating signs.
7. Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.

G. **Violations.** Any person who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall, upon conviction thereof, be guilty of a petty misdemeanor. Persons violating this Section may be fined in addition to other penalties for Ordinance violations allowed by this Ordinance. Any sign violation of this Section may be subject to immediate removal by the City, at the expense of the owner, without notice to the property owner or owner of the sign if different than the property owner. Each day that the violation continues is a separate offense.

1. This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute in the name of the City any appropriate actions or proceedings against a violator.
2. Inspection. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator.
3. The City reserves the right to require the removal at the owner's expense of any sign when the requirements of this Section are not completely followed and adhered to, or if a sign is not properly maintained or falls into a state of disrepair. The City shall not have any obligation or liability to replace any sign when removed by the City.

H. **Substitution.** The owner of any sign which is otherwise allowed by this sign Ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. Conversion back to commercial copy is permitted as allowed in each Zoning District. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

I. **General Regulations**.

1. All freestanding and monument signs shall be set back three (3) feet from any property line and outside of the site visibility triangle. No portion of the sign shall extend into the public right-of-way or an easement.
2. Wall signs may extend no more than 24 inches from the building façade and may encroach into the public right-of-way where there is a zero building setback.
3. The installation of electrical signs shall be subject to the State Electrical Code. Electrical service to a freestanding sign shall be underground.
4. No sign shall be attached or be allowed to hang from any building until all necessary wall attachments have been approved by the City Building Official.
5. No signs, guys, stays or attachments shall be erected, placed, or maintained on trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.
6. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the driver and may not interfere with or obscure traffic signs or signals. Lighting may not illuminate any adjacent properties, buildings, or streets.
7. Portable signs which are designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed are permitted within GC, CC, ME and GI Zoning Districts subject to the following:

a. A Sign Permit is issued for the sign that shall require a non-refundable fee as set by Ordinance, together with a bond or cash deposit is issued for the sign.

b. In the event the sign is not removed within two (2) business days of the permit expiration date, the bond or cash deposit shall be forfeited as a penalty.

c. Permits shall be for periods not to exceed 60 consecutive days of each 90 calendar day period for one premises, or a total of 120 days in a calendar year.

d. One (1) temporary sign is allowed on the premises at one time.

e. Temporary signs permitted by Subsection [D] of this Ordinance shall be exempt from the requirements of this Section.

8. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

9. A freestanding sign or sign structure constructed so that the faces are not back-to-back, shall not have an angle separating the faces exceeding twenty degrees (20°) unless the total area of both sides added together does not exceed the maximum allowable sign area for that District.

10. The area within the frame of a sign shall be used to calculate the square footage except that the width of a frame exceeding twelve (12) inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six (6) inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.

11. The top of a wall sign, including its superstructure, if any, shall be no higher than the top of the roof of the building to which such sign may be attached.

12. Projecting signs may be allowed in commercial districts provided that:

a. There is a minimum of eight (8) feet of clearance under the base of the sign to the ground below.

b. The sign does not project more than five (5) feet beyond the wall to which it is mounted, may not project over any vehicular drive aisle or traveled portion of a public or private street and may not project over a public right-of-way except within the TC and MS Zoning Districts.

c. The area of the projecting sign is not more than fifty (50) percent of the maximum area allowed for an individual wall sign in the respective zoning district in Subsection [J.9 and J.10] of this Subsection.

13. Roof signs shall be allowed in commercial and industrial districts provided that:

a. The height of the sign shall not exceed the height of the roof.

b. The sign design shall be consistent with the building character and integrated into the building architecture.

14. Signs are not allowed to encroach into or over MnDOT right-of-way.

J. **District Regulations.** In addition to the signs allowed by this Subsection, the following signs shall be allowed within the specific Base Zoning Districts:

1. Non-residential uses within the RL, GL, CN and TN Base Zoning Districts.

a. Except for the uses specified in Appendix A: Table of Uses, one (1) sign shall be allowed per parcel provided that:

i. The total area of the sign shall not exceed thirty-two (32) square feet.

ii. A freestanding sign shall be limited to a maximum height of six (6) feet.

2. Signs shall be allowed for a subdivision or multiple family development of five (5) or more lots or dwelling units provided that:
   a. One (1) sign shall be allowed at each street entrance. Entrances less than one hundred (100) feet apart are not permitted individual entrance signs.
   b. The area of each sign shall not exceed twenty-four (24) square feet.
   c. Freestanding signs shall be limited to a maximum height of six (6) feet.
   d. Illumination of the sign shall be as regulated in [I.6.] of this Subsection.
   e. For sign(s) requiring regular long-term maintenance, the sign(s) shall be located on common space of sufficient size and area to accommodate said structure. The property owner or association shall be responsible for maintenance of the sign.
   f. One (1) wall sign up to sixteen (16) square feet is permitted for each multifamily development.
   g. The area around the sign shall be landscaped in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject approval by the Zoning Administrator.
   h. The design and construction of area identification signs shall be done with the highest commercial quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Area identification signs are to be aesthetically pleasing when designed and constructed. The sign shall be compatible with nearby structures in the area. Detailed construction plans and a materials list shall be included with each Sign Permit application and shall be subject approval by the Zoning Administrator.
3. Additional signs shall be allowed upon approval of a Final Plat for a subdivision having not less than five (5) lots provided that:
   a. One (1) sign shall be allowed per project or subdivision or one (1) sign for each frontage to a public street, whichever is greater.
   b. The area of the sign shall not exceed thirty-two (32) square feet.
   c. Freestanding signs shall be limited to a maximum height of eight (8) feet.
   d. The sign shall not be displayed for a period to exceed twenty-four (24) months from the date a permit is issued for the sign or until building permits have been issued for eighty-five (85) percent of the lots or dwelling units within the subdivision, whichever is less restrictive.
4. Government buildings and structures, public, quasi-public or private recreation buildings, public parks and recreation areas, public and private educational institutions limited to accredited elementary, middle, senior high schools, or colleges and universities, and places of worship shall be allowed the following signs:
   a. Not more than two (2) wall signs shall be permitted on the front wall. The combined total area of such sign or signs shall not exceed the lesser of fifteen (15) percent of the area of the front face (including doors and windows).
   b. For each principal building on a lot, there shall not be more than one (1) freestanding monument sign except on a corner lot where two signs, one facing each street, shall be permitted. No such signs shall exceed one hundred (100) square feet in area. Monument signs may not exceed twelve (12) feet in height. The monument sign may include a changeable copy sign as part of the allowable sign area.
5. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within the Base Zoning District.
6. No more than one (1) changeable copy sign per parcel.

7. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
8. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
   a. Temporary signage is subject to the provisions of Subsection [D and I] of this Ordinance.
9. Within the TN-2 District the following additional regulations shall apply:
   a. All residential use regulations in accordance with Appendix A: Table of Uses.
      i. Each parcel shall be allowed one (1) wall sign up to two (2) square feet in area and one (1) freestanding sign up to 12 square feet in area.
      ii. The height of a freestanding sign shall not exceed six (6) feet.
10. Within the [CC, GC, MS, TC, ME, GI] Districts the following additional regulations shall apply:
   a. The total area of building signs displayed on a parcel shall not exceed 15 percent of the building façade on which the sign is to be located fronting not more than two (2) public streets.
   b. A 100 square foot sign up to 25 feet tall is permitted for a parcel with street frontage of 100 feet or less.
      i. In CC and GC Zoning Districts, one (1) square foot of sign area may be added to the permitted 100 square foot sign area for each one (1) foot of street frontage over 100 feet. A sign up to 300 square feet is permitted.
      ii. Parcels in CC and GC Zoning Districts with more than 300 feet of street frontage may have one (1) additional sign for each additional 300 feet of street frontage. Signs shall be located at least 300 feet apart.
   c. Sign area for parcels permitted more than one (1) sign is equal to the total feet of street frontage. If more than one (1) sign is used, the total sign area allowed shall be distributed between permitted signs.
   d. Each sign shall be 300 feet apart and each sign may not exceed 300 square feet in area.
   e. Signs shall be located on the street frontage for which its sign area is determined.
11. Wall, Canopy and Marquee Signs. Wall, canopy, or marquee signs may occupy up to fifteen (15) percent of a building façade fronting a public street or alley. Up to an additional 16 square feet may be used for awning signs.
12. Awning or Canopy Signs. Letters may be painted or otherwise affixed to any permissible awning or canopy as follows:
   a. One sign per canopy fascia fronting onto a public street.
   b. Be within the physical dimensions of the awnings or canopy fascia.
13. Accessory signs to gas sales in conjunction with automobile service stations or convenience stores are permitted provided that:
   a. *Gasoline and Price Sign*. One (1) sign (single or double faced) per frontage on a public street, suitable for apprising persons of the total sign price per gallon. The area of such price sign shall not exceed 16 square feet on either side. Each such sign shall be affixed to the standard of a ground sign or light fixture and shall state the total price. No sign posting an incomplete price or less than the total sales price is permitted.
   b. Signs denoting operating instructions associated with self-service gas facilities including gas pump, air supply and car washes are exempt from the maximum sign area standards of this Subsection.
14. Changeable Copy Signage.
   a. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within a respective Zoning District.

b. No more than one (1) changeable copy sign per parcel.

c. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.

d. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.

15. In addition to the freestanding sign allowed by this Subsection, convenience food uses with drive through facilities may display additional signs, provided that:

a. Not more than one (1) sign is allowed.

b. The sign shall be single sided with an area not to exceed fifty (50) square feet.

c. The height of the sign shall not exceed six (6) feet including its base or pole measured from grade to the top of the structure.

d. The sign shall not encroach into any principal building setback and shall be located directly adjacent to the drive through aisle and oriented in such a manner so that the sign provides information to the drive through patrons only and does not impair site visibility or obstruct circulation.

16. Multiple Occupancy Commercial and Industrial Buildings including Business/Commercial Centers:

a. Except as provided for in this Subsection, individual tenants of a multiple occupancy building within a commercial or industrial zoning district may display separate wall, canopy or marquee signs when a tenant's business has an exclusive exterior entrance subject to the following requirements:

i. The number of wall signs shall be limited to one (1) per tenant space, except one (1) sign per exterior wall may be displayed for the tenant of a corner suite or a suite that extends through a building this having two (2) exterior walls facing a public right-of-way.

ii. The total area of all wall signs shall not exceed fifteen (15) percent of the tenant bay.

iii. Signs shall be located on the exterior wall of the tenant space to which the Sign Permit is issued but are not required to face a public street.

b. In addition to wall and free-standing signs, canopy and marquee signs are allowed provided that:

i. Occupy up to an additional sixteen (16) square feet on a building façade fronting a public street or alley.

ii. Letters are painted or otherwise affixed to any permissible awning or canopy as follows:

a. One (1) sign per canopy fascia fronting onto a street.

b. Be within the physical dimensions of the awnings or canopy fascia.

c. Business/Commercial Centers may erect one (1) free standing sign per street frontage, not to exceed two (2) freestanding signs per site (single or double faced).

d. Changeable copy signs are allowed in accordance with this Subsection.

K. **Non-Conforming Signs.** A nonconforming sign lawfully existing upon the effective date of this Section shall be regulated in accordance with this Section.

515-3-36 Specialty Food Shop

A. Specialty Food Shops with, or without, a drive-up window and/or with or without outdoor seating must comply with the following minimum standards:

1. Coffee beans cannot be roasted on site.

2. Adequate screening from abutting residential uses and landscaping must be provided.

3. Adequate off-street parking and access must be provided on the site to serve the business. Off-street parking may be provided on lots directly abutting or directly across a public street or alley to the principal use. Off-street parking must be adequately screened and landscaped from surrounding and abutting residential uses.
4. Adequate off-street loading and service entrances must be provided.

515-3-37 Storage, Utilization or Manufacture of Materials that Could Decompose by Detonation

A. Any storage, utilization of manufacturing of materials that could decompose by detonation must comply with the following minimum standards:

1. The use must demonstrate compliance with all applicable Minnesota Pollution Control Agency Requirements are satisfactorily met.
2. Storage areas must be landscaped, fenced and screened from the view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
3. Vehicular access points shall create minimum conflict with through traffic movement and shall be subject to approval of the City Engineer.
4. Provisions must be made to control and minimize noise, air and water pollution.

515-3-38 Temporary/Seasonal Outdoor Sales and Promotional Events

A. Any temporary/seasonal outdoor sales and/or promotional events must comply with the following minimum standards:

1. Such activity must be targeted toward the general public which may include, but is not limited to, grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
2. The maximum term of the event may not exceed 14 consecutive days, with a maximum of four (4) permits per calendar year for each use. Consecutive permits may be issued.
3. No portion of the use shall take place within any public right-of-way.
4. Parking and display areas associated with the use shall not distract or interfere with existing business operations or traffic circulation patterns.
5. Display areas and parking spaces shall use those parking lot spaces that are in excess of the minimum required parking for the primary use of that property.
6. The site shall be kept in a neat and orderly manner and display of items shall be as compact as possible so as to not interfere with existing business, parking or driveway operations.
7. Sales products, trailers, temporary stands, etc. shall be located on an asphalt or concrete surface.
8. Temporary outdoor seasonal sales uses may have one (1) on-site temporary sign not to exceed 24 square feet in area and not more than six (6) feet in height.
9. A daily cleanup program must be reviewed and approved as part of the Permit process.

515-3-39 Transient Food Unit

A. **Established Boundaries and Permitted Hours of Operation.** Transient Food Units are permitted to operate on any Non-Residential Zoning District as identified on Appendix A Table of Uses . Transient Food units are also permitted to operate on property owned by Central Lakes College, the Franklin Arts Center, and Independent School District 181 regardless of Base Zoning District.

1. Transient food unit hours of operation shall be limited to 7:00 am to 11:00 pm.

B. **Relationship to other Applicable Regulations.** Property located within a PUD Overlay District shall be subject to the provisions of the Base Zoning District.

C. **Permitted Uses.** Transient food units including trucks, trailers, wagons, carts, seasonal temporary food stands, etc. are allowed on public and private property subject to the following:

1. Only food and non-alcoholic beverages can be sold.
2. At least one (1) trash receptacle with a tight fitting lid shall be provided.
3. Operators must clean around their unit at the end of each day.
4. Operator cannot call attention to themselves by crying out, blowing a horn, ringing a bell, and playing music or other noise discernable beyond the unit.
5. Units must be kept in good repair and order and have a neat appearance.
6. Electrical cords and hookups to public utilities are not permitted.
7. Liquids from a food unit cannot be drained onto public property.
8. Generators must be self-contained and fully screened from view and not exceed 70 dbs.
9. Exterior lighting that will call attention to the setup is not permitted.
10. Follow applicable Department of Health regulations.
11. Copies of all required state licenses and insurance coverage.
12. One "A" frame sign not exceeding 12 square feet per side is permitted during operation.
13. Property owner written approval is required.
14. Units cannot be left unattended nor remain at an authorized operating location outside allowed hours of operation.
15. Sales cannot be made to individuals parked or stopped in a public street or alley. Sales to customers on a sidewalk are not allowed.
16. Units cannot locate within 300 feet from the property perimeter of any festival (including the Crow Wing County Fairgrounds), sporting event and civic event unless a license is issued to be a part of the festival or event.
17. Proof of liability insurance is provided in accordance with City of Brainerd requirements.
18. Transient food units are permitted to operate during festivals and community events provided it is approved by City of Brainerd as part of a festival and community events permit.
19. Sales are permitted in a City park when approved by City of Brainerd Parks and Recreation Board.
20. Maximum number of units per property:
    a. Two (2) food trucks on lots of one-half acre or less.
    b. Three (3) food trucks on lots between one-half acre and 1 acre.
    c. Four (4) food trucks on lots greater than 1 acre.
21. A primary use must be operating on the property in order for food unit operations to be allowed.

515-3-40 Truck Terminals

A. Any truck terminal must comply with the following minimum standards:

1. Vehicular access points must be located along arterial streets, and the minimum number of access points needed for safe ingress/egress shall be provided. The number of access point must be designed and

constructed to create a minimum of conflict with through traffic movement. Such access locations shall be subject to review and approval by the City Engineer.

2. A drainage system subject to the approval of the City Engineer shall be installed.
3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
4. Provisions must be made to control and minimize noise, air and water pollution.

515-3-41 Warming Shelters

A. Any Warming Shelter must comply with the following minimum standards:

1. Operation may not exceed 16 continuous hours.
2. Facility occupancy shall not exceed 30 beds or total occupancy of facility as set by the Fire Marshall, whichever is less.
3. Facility shall be staffed during all hours of operation.
4. 24-hour contact information shall be provided to the City of Brainerd Police Department and Crow Wing County Community Services Department.
5. Except for bicycle racks, outdoor storage of equipment, furniture, personal items, or other such possessions of those using the facility is not permitted.
6. Facility shall meet all applicable building, safety, fire and health code requirements.

515-3-42 Wireless Antennas and Towers

A. **Purpose and Intent.** The purpose of this Section is to establish predictable and balanced regulations for the location and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the City of Brainerd while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of the Section are intended to maximize the use of existing towers, structures, and buildings to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community.

B. **Definitions.** For the purposes of this article, the following definitions apply:

Abandonment means cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this article.

Accessory equipment means any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Antenna means communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Base station means the equipment and non-tower supporting structure at a specific site authorized to communicate between user equipment and a communications network, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

Close mount shall mean and refer to mounting of the antenna array and or any part of the wireless facility with mounting techniques where the components do not protrude from the face of the structure by more than 18 inches.

Co-location shall mean and refer to the mounting or installation of transmission equipment for multiple

telecommunication providers on one eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Concealed/stealth wireless facility means any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

Eligible facilities request means a request for modification of an existing wireless tower or base station that involves co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment but does not include a substantial modification.

Engineered fall zone means the area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Equipment compound means an area surrounding or near the base of a wireless support structure within which are located wireless facilities.

Existing structure means an existing wireless support structure, that is capable of supporting the attachment of wireless facilities. The term includes, but is not limited to, electrical transmission towers, buildings, and water towers.

FCC shall mean and refer to the Federal Communications Commission or its successor.

Lattice type towers refers to the type of tower that has three or more legs that are spread at the bottom to transfer the lateral loads of the tower to the ground without the use of guy wires. The legs are connected to each other through a series of diagonal cross members that create a lattice work of steel.

Monopole means a single, freestanding pole-type structure supporting one or more antennas. For the purposes of this article, a monopole is not a tower or a utility pole.

Ordinary maintenance means ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color, and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include adding additional antennas or transmitter/receivers, nor making substantial modifications to existing wireless facilities.

Replacement pole means a pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

Roof top or exterior façade mounted facilities means the placement of the whole or part of a wireless facility on an existing building roof or exterior face.

Self-supporting tower means typically a tower that is supported without the use of guy wires. Includes lattice and monopole type towers.

Site means for towers, monopoles, or concealment type structures, other than structures in public right-of-way, referring to the current boundaries of the leased or owned property surrounding the tower, monopole, any access, or utility easements currently related to the site, and, for other eligible support structures, shall mean

and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Substantial modification means the mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure or existing wireless facilities as defined by the FCC.

Tower means a lattice-type structure, guyed or freestanding, that supports one or more antennas.

Utility pole means a structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Wireless facility or *wireless facilities* means the set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

Wireless support structure means a freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility or light poles.

Wireless transmission equipment means any equipment that facilitates transmission for any authorize wireless communication service including backup power.

C. **General Standards**. The following standards shall apply to all personal wireless service telephone, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antenna.

1. All obsolete and unused antennas and towers shall be removed within twelve (12) months of cessation of operation at the site by the antenna or tower owner, unless an exemption is granted by the Zoning Administrator. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associate facilities when they are abandoned, unused or become hazardous shall be submitted to the City.
2. All antennas and towers shall be in compliance with all State Building and Electrical Code requirements and as applicable shall require related permits. Applications to erect new antennas and/or towers shall be accompanied by any required Federal, State, or local agency licenses.
3. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and as may be necessary, as determined by the City Engineer, shall be verified and approved by a professional engineer.
4. When applicable, written authorization for antenna and/or tower erection shall be provided by the property owner.
5. No message shall be affixed to the antenna and/or tower structure.
6. Antennas and/or towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
7. Towers shall be painted a non-contrasting color consistent with the surrounding area such as blue, gray, brown, or silver or have a galvanized finish to reduce visual impact, unless otherwise required by a governmental agency.
8. All antennas and towers shall be reasonably posted and secured to protect against trespass, including appropriate measures to prevent unauthorized persons from climbing any tower.

9. Towers shall comply with all applicable Federal Aviation Administration (FAA) regulations.
10. Amateur radio towers shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
11. Except as may be applicable in a case where a Conditional Use Permit is required, antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service shall be exempt from the following: Subsections [C.10, E and G].

D. **Applicability and Exemptions.**

1. All legally permitted wireless telecommunications facilities constructed as permitted uses, existing on or before _____ 2017, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section. Any repair, maintenance or replacement of a wireless telecommunication facility that does substantially change the facility does not require an application for a Conditional Use Permit, but does require an Administrative Permit.
2. The following shall be exempt from the requirements of this Section:
   a. Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
   b. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.
   c. Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11A, B, G (Wi-Fi) and Bluetooth) where the facility does not require a new wireless support structure.

E. **Location Standards.**

1. Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, a. being the highest priority and i. being the lowest priority:
   a. On existing towers, monopoles, buildings or structures on City owned property, if permitted.
   b. On existing towers, monopoles, buildings or other structures on other property in the City.
   c. A new concealment/stealth wireless support structure on City owned property.
   d. A new wireless support structure on City owned property.
   e. A new concealment/stealth wireless support structure on property in any Zoning District.
   f. A new wireless support structure on property in the Makers + Employment (ME) or General Industrial (GI) Zoning Districts.
   g. A new wireless support structure on property in the Commercial Corridor (CC), Town Center (TC) or General Commercial (GC) Zoning Districts.
   h. A new wireless support structure on property in the Main Street (MS) or Traditional Neighborhood 2 (TN-2) Zoning District.
   i. A new wireless support structure on property in the Rural Living, Garden Living, Contemporary Neighborhood or Traditional Neighborhood 2 (TN-1) Zoning Districts.
2. If the location proposed is not the highest priority location listed in A. above, the location proposed shall not be approved unless the applicant establishes that there are no sites available in a higher priority

location that meet the requirements of this Section and the technical requirements for the proposed wireless telecommunications facility. Economic considerations shall not be a factor in determining whether a higher priority location is available.

3. An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial practical difficulty.
4. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
5. The City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

F. **Certification, Inspection and Maintenance.**

1. All towers, antenna support structures, and related equipment or structures shall be kept and maintained in good condition, order, and repair so as not to menace or endanger the life or property of any person.
2. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and Federal and State law.
3. The City shall have authority to enter onto the property upon which a tower is located to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by the City's Code, Federal and State law. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the owner. All expenses related to such inspecting by the City shall be borne by the owner.

G. **Co-Location Design Requirement.** An application for a new tower 50 feet in height or less shall not be approved unless the applicant demonstrates that the antennas cannot be constructed on an existing building or structure within a one half (1/2) mile radius of a proposed tower site.

1. Any tower more than 50 feet in height shall not be approved unless the applicant demonstrates that the antennas cannot be constructed on an existing tower, building, or structure within a two (2) mile radius of the proposed tower site due to one (1) or more of the following reasons:
2. The planned equipment would exceed the structural capacity of the existing tower, building, or structure as documented by a qualified and licensed professional engineer, and the existing tower, building or structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost or the owner of the structure or building refuses to agree to the necessary reinforcement or modifications.
3. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer and interference cannot be prevented at a reasonable cost.
4. Other unforeseen reasons that make it not feasible to locate the antennas upon an existing or approved tower or structure.
5. Existing or approved towers, buildings, or other structures do not exist in the search area or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs of the users.
6. The applicant shall demonstrate that compliance with subparagraphs 1. though 5. above was attempted, but an agreement could not be reached.

H. **Accessory Antennas.** The following standards shall apply to all accessory antennas including radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers.

1. Accessory antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.
2. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of one (1) foot from all lot lines.
3. Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of 15 feet above the normal height restriction for the affected Base Zoning District, except support structures and antennas used in the amateur radio service may extend a maximum of two (2) times the normal height restriction for the affected zoning district.

I. **New Tower Design Requirements.**

1. All new towers in excess of 120 feet shall be structurally designed to accommodate at least 3 additional antenna arrays.
2. All new towers between 80 feet to 120 feet shall be structurally designed to accommodate at least 2 additional antenna arrays.
3. All new towers between 40 feet to 79 feet shall be structurally designed to accommodate 1 additional antenna array.
4. Each future antenna array shall be of sufficient design to accommodate an antenna array equal to those of a typical fully developed wireless carrier site and at least equal to the size of array the applicant is installing. Future arrays should be planned to be located as close to the applicant's antenna as possible without causing interference.
5. Each new tower shall be designed to extend an additional 20 feet in height but not exceeding the height limitations of Section [J]. Design shall include a foundation sufficient in size to accommodate the additional height and weight and a mechanical connection to fasten the extra length of tower structure. This extension can be utilized to plan for the addition one (1) of the future antenna arrays required in Subsection [G] above.
6. These co-location design requirements may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially not practical or would compromise the stealth characteristics of the tower structure.

J. **New Towers.**

1. New guyed towers are prohibited in All Zoning Districts.
2. General Industrial Zoning District.
   a. All self-supporting and concealment/stealth type towers are allowed as a permitted use.
   b. Maximum build height of 179 feet.
   c. Tower setback shall be at least the distance of the engineered fall zone plus 20' or height of the tower plus 20' if no acceptable engineered fall zone documentation is presented.
   d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the zoning district within which it is located.
   e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require Zoning Approval and comply with the following standards:

i. Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.

ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.

f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.

3. General Business, Commercial Corridor, and Town Center Zoning Districts.

a. Close mount monopoles or concealment/stealth types of towers are allowed with a Conditional Use Permit.

b. Maximum build height of 50 feet.

c. Tower setback shall be at least the distance of the engineered fall zone plus 20 feet or height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.

d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the zoning district in which it is located.

e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require Zoning Approval and comply with the following standards:

i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.

ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.

f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.

4. Rural Living Districts.

a. Monopoles and concealment/stealth type of towers are allowed with a Conditional Use Permit.

b. Maximum build height of 179 feet.

c. Tower setback shall be at least the distance of the engineered fall zone or height of tower plus 20 feet if no acceptable engineered fall zone documentation is presented.

d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the Base Zoning District in which it is located.

e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require an Administrative Permit and must comply with the following standards:

i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.

ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.

f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.

g. Minimum size of parent property for a new wireless support structure to be located in is 10 acres.

5. Residential Zoning Districts.

   a. Eligible properties to build new wireless support structures are restricted to institutional and public uses within the Residential Zoning Districts.

   b. Concealment/stealth types of towers are allowed with a Conditional Use Permit.

   c. Maximum height of the tower is 40 feet.

   d. Tower Setback shall be at least the distance of the engineered fall zone plus 20 feet or the height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.

   e. Any accessory structure associated with these structures shall be located to comply with the applicable minimum setback requirements for the zoning district in which it is located.

K. **New Antennae.**

1. New antennae as a permitted secondary use shall require an Administrative Permit and shall comply with the following standards:

   a. The applicant shall demonstrate to the satisfaction of the City that location of the antennas as proposed is necessary to provide adequate portable personal wireless service telephone coverage and capacity to areas which cannot be adequately served by locating the antennas on an existing tower or support structure.

   b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:

      i. Towers with a maximum capacity to support two (2) antennas shall not exceed one 140 feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed 160 feet in height.

      ii. The setback of the tower from the nearest property line is not less than the height of the antenna. Exceptions to such setback may be granted in such cases when a qualified structural engineer specifies in writing that any failure of the pole will occur within a lesser distance under all foreseeable circumstances. The setback shall not be reduced in cases where the subject site abuts a Residential Zoning District. The setback requirements shall not be reduced below the minimum accessory building setback requirements of the Base Zoning District or the failure area of the tower, whichever is greater.

      iii. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.

      iv. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.

   c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.

   d. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.

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L. **Temporary Mobile Towers.**

1. Personal wireless service antennas located upon a temporary mobile tower as a permitted secondary use may be used on an interim basis until a permanent site is constructed shall require Zoning Approval and shall comply with the following standards:

   a. Temporary mobile towers are exempt from collocation and permanent tower structure design standards.

   b. The termination date of the permit shall not exceed 120 days. Temporary mobile towers located on a site longer than 120 days shall require the processing of an Interim Use Permit.

   c. Guyed towers are prohibited.

   d. Mobile units shall have a minimum tower design wind load of 80 miles per hour, or be set back from all structures a distance equal to the height of the tower.

   e. All towers shall be protected against unauthorized climbing.

   f. The height of the tower shall not exceed 100 feet.

M. **Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas.**

1. Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:

   a. Such antenna shall be considered an allowed Conditional Use within the General Industrial Zoning District.

   b. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.

   c. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure and other equipment, as well as no climb security measures shall be provided on the tower or structure.

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515-4 GENERAL BUILDING, DEVELOPMENT AND DESIGN STANDARDS.

515-4-1 General Building Design Provisions applicable to all Zoning Districts.

A. **Purpose and Intent.** This Section identifies general building design size requirements and exceptions to general height requirements applicable within each Base Zoning District.

B. **Dwelling Unit Restriction.** No cellar, garage, tent, travel trailer, motor home, fish house, shall at any time be used as a dwelling unit.

1. An accessory building or basement may be used for as an Accessory Dwelling Unit (ADU) provided all of the lot requirements and dimensional standards of the Base Zoning District are met and the ADU complies with the Accessory Building Standards established in Section [515-4-6].

515-4-2 Building Design Standards.

A. **Single-Family Detached Residential Structure Standards**.

1. All single-family detached dwellings in the Rural Living, Garden Living, Contemporary Neighborhood and Traditional Neighborhood Base Zoning Districts shall meet the following design criteria:

a. The width of the principal residential structure shall comprise the following:

i. If the lot frontage is less than 75-feet, a minimum of 30% of the primary façade facing the road right-of way must be principal structure.

ii. If the lot frontage is greater than 75-feet, a minimum of 40% of the primary façade facing the road right-of-way must be principal structure.

iii. Such width requirement shall be in addition to the minimum area per dwelling requirements established within this Ordinance.

b. Principal Structures must be designed to be consistent with the predominant character of the existing residential block front. The block front shall consist of all residential properties along both sides of the public or private right-of-way on which the development fronts. The block front shall be measured from intersection to intersection, to the road end, or two hundred (200) feet in either direction from the development site, whichever is nearest.

c. Building orientation on lots shall match the predominant orientation of other buildings along the block front.

d. Roofs on proposed residential structures shall be similar in slope and style to existing development and shall incorporate any or all of the following features, insofar as such features are compatible with existing development on the block front:

i. Dormers;

ii. Gabled or hipped roofs;

iii. Pitched roofs;

iv. Parapets or cornices.

v. Unless it is the predominant existing style on the block front, flat roofs shall not be allowed.

e. The exterior of the principal structure must be finished with materials that are typical of single-family construction. All edges, fasteners, and other structural elements must be finished and/or covered. Acceptable building materials include:

i. Hardie-board, LP, or other similar solid composite siding.

ii. Wood lap siding and wood shakes.

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iii. Vinyl or aluminum siding.

iv. Stone and stone veneer.

v. Brick or other masonry with finished face.

vi. Other materials may be approved by the Zoning Administrator.

f. Horizontal facades longer than twenty-five (25) feet shall be treated to reduce buildings mass and visual bulk using at least one of the following techniques:

i. Bays or recesses (minimum depth of eighteen (18) inches);

ii. Window patterns;

iii. Contrasting materials or colors;

iv. Upper story setbacks;

v. Balconies.

2. All buildings shall be built in conformance with the State Building Code as adopted in the State of Minnesota.

3. Dwellings constructed after the effective date of this Ordinance shall have a minimum finished habitable floor area of 500 square feet.

4. All new single-family detached dwellings shall have a minimum of one (1) enclosed garage which may be either detached or attached to the principal structure.

a. The garage shall be considered an accessory building and must comply with the standards and regulations established within the Base Zoning District.

B. **Attached Single-Family Residential Structures (duplex, triplex, fourplex)**.

1. The minimum width of the principal structure of an attached single-family dwelling unit shall be fifteen (15) feet.

2. Attached single-family dwelling units shall have a minimum finished habitable floor area of five hundred (500) square feet.

3. Exceptions to minimum width or size may be approved if the structure includes front porches or decks or other additions that provide additional living space for the unit.

4. Any conversion of an existing single-family detached residential structure into a duplex, triplex of fourplex shall meet the lot and dimensional requirements of the Base Zoning District for the total number of units. Such conversion shall also comply with the following standards:

a. All conversions shall be subject to a Sketch Plan review, which shall be reviewed and approved by the Zoning Administrator. If the proposed conversion does not comply with any standards of the Base Zoning District the conversion shall be denied.

b. Any conversion must comply with the Minnesota State Building Code.

c. All parking standards and requirements as established in this Ordinance must be met for the resulting number of units.

5. Building Materials. Attached single-family dwelling units shall be designed to create visual interest through a variety of materials, colors, textures, installation direction or other characteristics that create articulation either between units or floors. The exterior of the principal structure must be finished with materials that are typical of single-family construction. All edges, fasteners, and other structural elements must be finished and/or covered.

6. Garages.

a. Each dwelling unit shall include, at a minimum, a one (1) enclosed garage stall, that shall have a minimum dimension of 12 feet by 20 feet.

b. *Dwellings Units without basements.* Each dwelling unit shall include at a minimum, a one (1) stall 16' x 20' foot garage.

7. Utilities.

a. Separate public utility services including water and sanitary service shall be provided to each dwelling unit.

b. Private utilities including phone, gas, internet or other services shall be provided to each dwelling unit and management or maintenance responsibilities established within the homeowner's association.

8. Homeowners Association. A homeowners' association shall be established for all owner-occupied attached single-family developments with two or more units and townhome developments. The homeowners' association documents and covenants shall be subject to review and approval of the City Attorney. The homeowners' association shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing, and regular maintenance of private driveways and other areas owned in common when there is more than two (2) individual property owner having interest in the development and its common areas.

9. Building elevations and floor plans shall be submitted with any land use application. The plans shall clearly identify exterior building materials, colors and include a floorplan of all floors having habitable space. If a formal land use application is not required, the owner shall be required to submit a Site Plan review application as described in Section [515-5-5].

C. **Multi-family attached dwelling units** (5 dwelling units or more): All multi-family buildings constructed within the City shall conform to the following:

1. Multiple family dwelling units shall have the following minimum floor area per unit:

Table 515-4-2.1. Multi-Family Minimum Floor Area

Unit Type	Minimum Floor Area per Unit
Efficiency Units	400 square feet
One Bedroom Units	500 square feet
Two Bedroom Units	700 square feet
More than Two Bedroom Units	An additional 100 square feet per bedroom

2. Exterior Building Materials. Multi-family dwelling units shall be designed to create visual interest through a variety of materials, colors, textures, installation direction or other characteristics that create articulation either between units or floors.

D. **Commercial Use Design Construction Standards.** All buildings constructed within TN-2, TN-3, CC, TC and GC Zoning Districts shall conform to the following:

1. Commercial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a Conditional Use Permit.

2. Commercial building accents such as cloth or metal awnings, trim, banding, walls, entries or any portion of the building wall accent colors shall not exceed fifteen (15) percent of each wall area.

3. Exposed roof materials shall comply with the Minnesota State Building Code.

4. Exterior Building Materials – For all business and commercial districts.

a. New buildings constructed in the CC, TN-2, TN-3, ME and TC Zoning Districts should be consistent with the character of surrounding structures. Typical and permitted materials include: brick,

dimensioned stone, or their replicas, rock face block, decorative concrete panels, stone, stucco, wood, glass, or Exterior Finish Installation (EFIS). Material such as metal panels, window trim, flashing, accent features and the like that make up the exterior of a building shall not exceed twenty-five (25) percent.

b. Building additions, remodeling, replacement or reconstruction of fifty (50) percent or greater, shall conform to the standards in this Section.

5. Exterior Building Materials. The following standards shall apply in the MS Zoning District

a. New buildings constructed in the MS Zoning District should be consistent with the historic architecture and character of surrounding structures. Permitted materials include: brick, dimensioned stone, rock faced brick, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, or glass. Brick and stone replicas and exterior finish installations (EFIS) that are designed to be similar to the historic architecture of a building may be used on not more than fifty (50) percent of a building.

b. Building additions that increase the size of a building by more than 50 percent, or any modification to the street facing façade of the building that alters the front setback, or character shall be required to conform to the standards of this Ordinance.

E. **Industrial Use Design Construction Standards.** All buildings constructed within the General Industrial Zoning Districts shall conform to the following:

1. Principal Structures in the Industrial Zoning District with less than 1,000 square feet of floor area may only be allowed upon approval of a Conditional Use Permit.

2. Exterior Building Materials.

a. New buildings constructed in the GI Zoning District should be constructed using durable and lasting materials. Permitted typical materials include: brick, dimensioned stone, rock faced block, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, glass, EFIS, or metal panels. Metal panels shall not encompass more than an average of fifty (50) percent of street side building elevations combined.

b. Any structure in the Industrial District within three hundred (300) feet of Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3 shall comply with the Commercial Exterior Building Material Standards established in the preceding Subsection [D].

515-4-3 Height.

A. **Exceptions.** The building height limits established within each Base Zoning Districts shall not apply to the following:

1. Farm structures such as silos.
2. Church spires.
3. Belfries.
4. Cupolas.
5. Windmills/Wind Energy Conversion Systems (WECS).
6. Solar energy devices.
7. Chimneys and smokestacks.
8. Flag poles mounted on a building.
9. Non-commercial television and radio antennae and satellite dishes not exceeding twenty (20) feet above the roof.
10. Parapet walls extending not more than three (3) feet above the limiting height of the building.
11. Elevator penthouses.

12. Cooling towers/water towers.
13. Lighting structures for public outdoor recreational fields not exceeding eighty (80) feet in height.
14. Lighting structures for public hockey rinks not exceeding sixty (60) feet in height.
15. Telecommunication antenna and antenna towers as regulated by Section [515-3-42] of this Ordinance.
16. Poles, towers and other structures for essential services.

B. **Conditional Use Permit.** Building heights in excess of those standards contained in the Base Zoning District provisions and any other sections of this Ordinance may be allowed through a Conditional Use Permit, provided that:

1. Demonstrated need is established for the increase in height and said increase will not violate the intent and character of the Base Zoning District or any applicable Overlay Zoning District in which the structure is located.
2. The site is capable of accommodating the increased structure size.
3. The potential increased intensity and size of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
4. Public utilities and services are adequate.
5. The construction does not limit solar access to abutting and/or neighboring properties. A shadow study shall be required illustrating shadow encroachment on adjoining properties.
6. The provisions of Section [515-5-2] are considered and satisfactorily met.

515-4-4 Mechanical Equipment Screening.

A. **Rooftop Mechanical Equipment.** As viewed from ground level, within 100 feet of any public right-of-way, all mechanical equipment located on the roof shall be fully screened by a raised parapet or other architectural detail.

1. A raised parapet or other architectural feature that is an integral part(s) of the building shall be required as screening for rooftop mechanical equipment or to soften rooftop views.
2. Screening for rooftop mechanical equipment shall incorporate similar architectural features of the building and/or constructed of a material and color compatible with other elements of the building.

B. **Mechanical Equipment Ground Floor.** Ground mounted mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, air conditioners, and similar equipment shall be screened on all sides except those facing a building. An eighty (80) percent opacity visual screen shall exceed the vertical height of the equipment being screened by at least six (6) inches. A three (3) foot open area shall be maintained around such equipment to facilitate repairs.

515-4-5 High Water Elevation. All new buildings shall comply with building elevation regulations of the Floodplain and Shoreland Ordinance. In areas where a building or improvement is located within the Floodplain and Shoreland Overlay District, the building shall be placed at an elevation such that the lowest building opening meets the following standards:

A. A minimum of two (2) feet above 100-year flood elevation of areas with a separate emergency overflow.

B. A minimum of three (3) feet above the 100-year flood elevation of areas with no separate emergency overflow.

C. The 100-year flood elevation or high-water level shall be determined by a Registered Engineer.

515-4-6 Accessory Buildings, Uses and Equipment.

A. **Agricultural Farm Buildings.** Agricultural farm buildings, accessory to an active farm operation on a lot twenty (20) acres or larger, designed, constructed, and used to house farm implements, agricultural activities, or agricultural products shall be exempt from the requirements of this Section and accessory building standards established within the Base Zoning District.

B. **Residential Accessory Buildings, Structures and Uses.**

1. An accessory building or attached garage shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway or within five (5) feet of the principal building. Attached accessory buildings shall meet the principal building setbacks of the respective Base Zoning District.
2. No accessory building or structure shall be constructed or developed on a lot prior to the time of construction of the principal building to which it is accessory. A garage may be constructed if a building permit is secured for the principal building.
3. The permitted accessory building Floor Area, Height and Number is established within the Base Zoning District. All accessory buildings must comply with the following standards:
   a. All accessory buildings must comply with the lot and dimensional standards established with the Base Zoning District.
   b. All lot coverage and impervious surface coverage requirements must be met.
   c. Accessory Dwelling Units are permitted, or conditionally permitted, as established within the Base Zoning District. ADU's must also comply with the Use Standards established in Section [515-4-6].

C. **Design Standards.** No plastic, canvas or vinyl tarps shall be used in the construction of any accessory buildings. All buildings over 200 square feet shall designed to be compatible with the Principal Structure. Metal roofs are allowed provided they are constructed with standing seams and concealed or exposed fasteners. All buildings that are 200 square feet or less may include a variety of building materials, may be metal sided, but shall have a pitched roof.

D. **Commercial Accessory Buildings Use**

1. Accessory buildings shall comply with the standards established in the Base Zoning District.
2. Commercial accessory buildings shall comply with all dimensional standards established by the Base Zoning District in which the use is located.
3. Commercial accessory buildings shall be constructed of building materials to match the principal structure and comply with the building material requirements established in Section [515-4-2].

E. **Industrial Accessory Building Use.**

1. Industrial accessory buildings shall not exceed thirty (30) percent of the gross floor space of the principal building and shall comply with the standards established in the Base Zoning District.
2. Industrial accessory buildings shall comply with all dimensional standards established by the Base Zoning District.
3. Industrial accessory buildings shall be constructed of building materials to match the principal structure or with any of the following fabric material:
   a. Teflon Coated Fiberglass (PTFE)
   b. Silicone-Coated Fiberglass (SIPE)
   c. Woven PTFE (EPTFE)
   d. Ethylene Tetrafluoroethylene (EFTE)

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e. Vinyl Coated Polyester (PVC)

f. High-Density Polyethylene (HDPE)

F. **Greenhouses**.

1. The following clear material is permitted for greenhouse construction to allow radiant heat from the sun:

a. Glass

b. Rigid Polycarbonate Panels

c. Semi Rigid Polyethylene Panels

d. Rigid Fiberglass Panels

e. Rigid Acrylic Panels

f. Semi Rigid Vinyl

g. Flexible, rolled material such as Polyethlene, Polycarbonate, and Fiberglass.

G. **Swimming Pools**.

1. Purpose. The following standards are established for the installation of any in-ground swimming pool meeting the following characteristics. Single-Family detached residential and Attached single-family dwellings (duplex, triplex, or fourplex). The following shall apply to all swimming pools which are intended for accessory uses to single-family attached and detached residential uses:

a. A building permit shall be required for any in-ground or permanent above ground swimming pool that is over twenty-four (24) inches in depth, or over 5,000 gallon capacity.

b. Seasonal swimming pools twenty-four (24) inches in depth or greater must have a ground fault circuit if connected to an electrical system.

c. An application for the construction of swimming pools shall be on a City Application Form and accompanied by a fee established by City Council Ordinance.

2. Multi-family residential uses/Commercial Pools. For private swimming pools that are intended for and used by the occupants of a multi-family dwelling unit or commercial structure and the guests of the occupants, or for private and public clubs and organizations, the following regulations shall be met in addition to the permit application requirements.

a. No part of the water surface of the swimming pool shall be less than fifty (50) feet from any lot line.

b. No pumps, filter or other apparatus used in connection with or to service a swimming pool shall be located less than fifty (50) feet from any lot line and must be contained within an insulated building.

c. The pool area shall be adequately fenced to prevent uncontrolled access from the street or adjacent property. Fences shall be at least five (5) feet in height. The bottoms of the fences shall not be more than six (6) inches from the ground. Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable (chain link fences must be vinyl coated with slats for screening). All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self -latching devices placed at a height not lower than forty-eight (48) inches so as to be inaccessible to small children. Prior to filling the pool, the approved fence or enclosure must be completely in place and inspected and approved by the City Building Inspector. Adequate screening including, but not limited to, landscaping shall be placed between the pool area and adjacent lot lines.

d. All deck areas, patios, or other similar areas used in conjunction with the swimming pool shall be located at least thirty (30) feet from any lot line.

e. To the extent possible, back-flush water or water from pool drainage shall be directed onto the owner's property. Draining pools into the sanitary sewer is prohibited.

H. **Refuse and Recycling Material and Containers.**

1. Refuse Containers Location and Screening.

   a. Residential Structures with Four (4) or Less Units. Garbage cans, waste containers and recycling bins shall be kept in rear or side yards or indoors except on pick up days.

   b. Commercial, Industrial, and Institutional Uses, Residential Structures with More Than Four (4) Units shall comply with the following:

      i. All refuse, recyclable materials, and associated containers shall be stored within a structure or screened by a fence or wall as viewed from all abutting property and the public right-of-way.

      ii. All refuse and containers must be screened from view of abutting properties and the public right-of-way by a wall of at least six (6) feet in height and a minimum opaqueness of eighty (80) percent. Chain link fences with slats are prohibited.

      iii. Storage shall be located in the rear or side yard, if possible, and shall observe all accessory building setback requirements.

      iv. The location must be accessible for pick up hauling vehicles.

      v. All containers, fences and walls shall be approved by the Zoning Administrator and be kept in a good state of repair with lids designed to prevent spilling and spread of debris and access by animals.

515-4-7 Site Design Standards.

A. **Purpose and Intent.** It is the purpose of this Section to outline the general rules pertaining to lot size, building placement, open space, setbacks, setback exceptions and permitted encroachments that are not identified in specific zoning districts.

B. **Minimum Lot Area Requirements.**

1. Except for non-conforming lots of record governed by Section [515-5-10] of this Ordinance, the minimum lot area and dimensional requirements shall conform to the standards of the applicable Base Zoning District and any applicable Overlay District. No lot, yard, or other open space shall be reduced in area or dimensions so as to make such lot, yard, or open space less than the minimum required by this Ordinance, and if an existing yard or other open space is less than the minimum required, it shall not be further reduced.

2. No required yard or other open space allocated to a building or dwelling unit shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

C. **Buildable Area**.

1. Any lot or parcel served by public water or sanitary sewer services shall require a minimum buildable area to support a principal structure that complies with the minimum dimensional and lot requirements established within the Base Zoning District that the parcel is located. The required minimum lot area shall be shall be exclusive of road easements.

2. Any lot or parcel served by private well and sanitary septic system must contain a minimum of 0.75 acres of contiguous buildable land capable of supporting an individual septic system that complies with Minnesota Rules 7080, or successor statutes. All other minimum dimensional and lot requirements of the Base Zoning District shall be met.

D. **Building Placement and Multiple Structures.**

1. Street Obstructions. All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.

2. Principal Buildings. Except in an approved Planned Unit Development (PUD) that specifically allows it, not more than one (1) principal building shall be located on a lot or parcel.

E. **Yards.**

1. Yards. No required yard or other green space allocated to a building or development area shall be used to satisfy yard, other green space, or minimum lot area requirements for any other building or development.
2. Green Space. The Base Zoning District establishes the maximum impervious surface coverage of a lot or parcel. The remaining uncovered area shall be considered Green Space.

F. **Setbacks**

1. Reductions. No setback or yard shall be reduced in area or dimension to make such setback or yard less than the minimum required by this Ordinance, and if the existing setback, yard or other green space as existing is less than the minimum required, it shall not be further reduced.
2. Front Setback Exception. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.
3. Corner Lots and Double Frontage Lots. All lots and improvements must conform to the setback standards as established in the Base Zoning District. In the case of a lot with double frontage the primary frontage shall be established by determining the orientation of the principal structure's main entrance.
4. Traffic Visibility Setback. The visibility setback, or site triangle, shall be regulated per the Base Zoning District standards.

G. **Permitted Yard Encroachments.** The following structural elements or equipment shall not be considered encroachments on required yards:

1. Flag poles, sidewalks, wheelchair ramps, trees, shrubs, plants, yard lights, mailboxes, floodlights, or other sources of light illuminating authorized illuminated signs, or light standards for illuminating yards for safety and security reasons, provided the direct source of light complies with Section [515-4-8] of this Ordinance. Replacement of any item located within a public easement which has been destroyed or damaged due to accessing the easement shall be at the owner's expense.
2. Flues, belt course, bay windows, leaders, sills, pilaster, eaves, lintels, cornices, gutters, awnings, open canopies, chimneys, ornamental features, and open fire escapes, provided they do not extend more than four (4) feet into a required yard.
3. Terraces, steps, decks, uncovered porches, stoops or similar structures, which do not extend in elevation above the height of the ground floor elevation of the principal building and do not extend within two (2) feet of any lot line.
4. Decks, balconies, uncovered porches, and/or similar features, attached to the principal building which extend in elevation above the height of the ground floor elevation of the principal building provided they do not extend within ten (10) feet of the rear lot line or extend beyond side yard accessory building setbacks.
5. In rear yards, clothes lines, recreational equipment (non-vehicular), trellises, open arbors are permitted provided that they maintain a five (5) foot setback from the side and rear lot lines. No encroachment shall be permitted within existing drainage or utility easements.
6. Accessory equipment or uses including: gazebos, air conditioners, accessory antennas, sport courts, swimming pools, and trash enclosures are as regulated within this Section.
7. Fences that comply with the standards and regulations established in Section [515-4-11].
8. Essential services.

H. **Zero Lot Line Subdivisions.**

1. **Attached Single-Family Residential and Multi-family Residential Uses.** If existing duplex, triplex, fourplex townhouses, or apartment units are proposed to be subdivided so that each unit is on an individual

unit or condominium basis for owner occupancy, it shall require a Planned Unit Development (PUD) according to the provisions of Section [515-5-7] of this Ordinance. Any proposed subdivision shall meet the following requirements:

a. Prior to a duplex, triplex or fourplex building subdivision, the base lot shall meet all the requirements of the Base Zoning District in which the building is located.

b. There shall be no more than one (1) principal structure on a base lot in all Zoning Districts, unless otherwise permitted within an approved PUD. The principal structure on a lot created in a duplex, triplex or fourplex building subdivision will be that portion of the dwelling unit that is existing or constructed on the platted lot.

c. Permitted accessory uses as defined by the Base Zoning District is acceptable provided that the use meets all the dimensional and lot requirements.

d. A property maintenance agreement shall be arranged by the applicant and submitted to the City Attorney for review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure including but not limited to siding, roofing (type and color), fencing, driveways, maintenance, etc. and the lots to meet minimum City standards. The agreement is to be filed with the County Recorder's office as a deed restriction against the title of each unit lot.

e. Separate public utility service shall be provided to each subdivided lot or unit and shall be subject to the review and approval of the City Engineer.

f. The subdivision is to be platted and recorded in conformance to requirements of the Subdivision Ordinance.

2. Buildings may be excluded from side yard requirements if party walls are utilized or if the adjacent buildings are planned to be constructed as an integral structure and a Conditional Use Permit is secured.

515-4-8 Outdoor Lighting.

A. **Purpose and Intent.** It is the purpose of this Section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing nighttime safety, utility, security and productivity.

B. **Exemptions.** The provisions of this Section shall not apply to the following:

1. The use of temporary outdoor lighting used during customary holiday seasons.
2. The use of temporary outdoor lighting used for civic celebrations and promotions.
3. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
4. Emergency lighting used by police, fire, and rescue authorities.
5. Outdoor athletic facilities, except that lighting for such facilities, shall be shut off within ninety (90) minutes of final activity.

C. **Non-Conforming Uses.**

1. Existing Fixtures. All outdoor lighting fixtures existing and installed prior to the effective date of this Ordinance are exempt from regulations of this Section except that the light source shall be controlled to minimize light trespass onto adjacent property. Light trespass shall not exceed one (1) foot candle at the center line of a street or four-tenths (0.4) foot candles at the property line of adjacent residential property.
2. New Fixtures. Whenever a light fixture existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this Section shall be satisfied.

D. **Light Trespass.**

1. Maximum Light Levels. Light trespass shall not exceed one (1) foot candle at the center line of a public street or four-tenths (0.4) foot candles at the property line of adjacent residential property as measured at the property line per the method outlined in this Section.
2. The foot candle level of a light source shall be measured at the property line and taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.

E. **Performance Standards.**

1. Residential Use Standards. All exterior lighting shall be directed away from adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
   a. The light source shall be controlled so as not to light adjacent property in excess of the maximum light levels defined by this Ordinance.
   b. The maximum height of the fixture, pole and base above the ground grade permitted for light sources is thirteen (13) feet. A light source mounted on a structure shall not exceed the height of the structure.
   c. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of twenty (20) feet may be allowed.
   d. Any luminaire affixed to a structure shall contain a full cut off fixture which directs and cuts off light at an angle of ninety (90) degrees or less.
      i. Any luminaire or light source not affixed to a structure shall be hooded and down cast to protect the night sky.
2. Business/Industrial Use Standards. All exterior lighting shall be directed away from adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
   a. The luminaire shall contain a full cut off fixture which directs and cuts off light at an angle of 90 degrees or less.
   b. The light source shall be controlled so as not to light adjacent property in excess of the maximum light levels defined by this Ordinance.
   c. Architectural/historical lights that include fixtures that are not shielded, or lighting of entire facades or architectural features of a building are permitted. In no case shall the light affect adjacent property in excess of the maximum light levels defined in this Ordinance.
   d. In GC and CC Districts, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is thirteen (13) feet. A light source mounted on a structure shall not exceed the height of the structure.
      i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 20 feet may be allowed.
   e. In TC, MS, ME Districts, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is 20 feet. A light source mounted on a structure shall not exceed the height of the structure.
      i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 25 feet may be allowed.

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f. In the GI District, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is 25 feet. A light source mounted on a structure shall not exceed the height of the structure.

i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 30 feet may be allowed.

g. *Location.*

i. The light source of an outdoor light fixture shall be set back a minimum of three (3) feet from a street right-of-way or residential property and three (3) feet from any other property line.

ii. No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by an Administrative Permit.

iii. Direct or reflected light from high temperature processes such as combustion or welding shall not be visible from any adjoining property.

3. Outdoor Recreation. Outdoor commercial or public recreational uses such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts have special requirements for nighttime lighting. In such cases, an Administrative Permit shall be required and compliance with the following:

a. No outdoor recreation facility shall be illuminated after 12:00 a.m. except for security lighting. Exceptions may be granted by the Zoning Administrator for special events.

b. Off-street parking areas for outdoor recreation uses shall meet the requirements stated for business or industrial applications as found in Section [515-4-12] of this Ordinance.

c. The provisions for an Administrative Permit, Section [515-5-9] of this Ordinance, are considered and satisfactorily met.

F. **Submission of Plans.** All zoning and building applications, except single and two family residential, that include outdoor lighting shall submit the following information in addition to other information required by the Zoning Administrator:

1. Sketch Plans indicating the location of all lighting devices.
2. Description of the lighting devices, fixtures, lamps, supports, and reflectors. The description shall include, but is not limited to, catalog cuts by manufacturers and drawings.
3. Photometric plans showing the location of each light source and the level of light (measured in foot candles) every 20 feet.

515-4-9 Landscaping, Green Space and Screening Requirements.

A. **Purpose and Intent.** The purpose of this Section is to establish standards for general landscaping, green space and required screening applicable to all Districts. When landscape material is used for screening it shall incorporate plant types and sizes that will promote healthy landscapes. These standards are intended and designed to assure compatibility of uses and to enhance the health, safety and general welfare of the residents of the City of Brainerd.

B. **Minimum Requirements.** The requirements in this Section are minimum requirements, and under no circumstances shall they preclude the ability of the property owner and the City from agreeing to more extensive landscaping.

C. **Invasive Species.** The planting of any noxious weed that is prohibited by Crow Wing County, the State of Minnesota, or the United States Federal Government shall not be planted on any property within the Brainerd City Limits. Any noxious weed that is on the State of Minnesota's Eradicate List must be eradicated, meaning all of the above and below ground parts of the plant must be destroyed, as required by Minnesota Statutes, Section [18.78].

515-4-10 General Landscaping Improvement Standards.

A. **Landscape Improvement Standards by Use.** Except as may be required or permitted in this Section, or provided by development contract or approval by the City Council, the site area remaining after providing for any required off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ground cover such as mulch or landscape rock, turf grass, ornamental grass, shrubs, trees other acceptable vegetation or treatment generally used in landscaping prior to the date of a Certificate of Occupancy.

1. Single-family detached and single-family attached residential uses. In addition to the specific planting requirements stated below all yards shall be started with seed or sod and required landscaping improvements installed.

2. Multi-family attached residential uses. The Main Street District is exempt from these requirements.

   a. *General Site Landscaping.* Four (4) shrubs shall be planted per dwelling unit. Two (2) perennials can be substituted for (1) shrub. Shrubs used as required screening as identified in (b) shall not be counted in meeting these requirements.

   b. *Privacy Screen.* Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public or private street an eighty (80) percent opacity four (4) foot high landscaped privacy screen shall be provided. The screen shall consist of a combination of trees, shrubs, berms and/or fences (no walls).

3. Non-Residential Uses.

   a. *General Site Landscaping.* All developed portions of the site shall conform to the general landscaping requirements in this Section, except where screening is required.

   b. *Commercial District Landscape Requirement.* One (1) shrub is required for every 300 square feet of total building floor area up to 10,000 square feet. Thereafter one (1) shrub is required for every 600 square feet in excess of 10,000 square feet. Two (2) perennials can be substituted for (1) shrub. The required plantings should be spaced around the foundation of the building and do not count towards any required screening. The Main Street District is exempt from this requirement.

   c. *Screening.* A six (6) foot high fence or landscaped screen, providing eighty (80) percent year around opacity, shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes. Berms may be used as part of the six (6) foot screen height but shall not be used to achieve more than three (3) feet of the required height. Landscape material provided along the outside of a fence or wall (except when adjacent to an alley) with maximum spacing is required as follows:

Table 515-4-10.1. Plant Spacing Requirements For Screening

Type of Landscape Screening	Planting Requirements
4' High Deciduous Shrub	1 per 4 lineal feet
4' High Evergreen Shrub	1 per 5 lineal feet
6' High Deciduous Shrub	1 per 6 lineal feet
6' High Evergreen Shrub	1 per 8 lineal feet

   d. Required screen height must be met within three (3) years of planting.

   e. See Section [515-4-12] for parking lot requirements.

B. **Landscape Improvements in Easement Areas.** Where possible, all landscape improvements shall be placed outside of any required drainage or utility easement. If it is not possible to avoid improvements within easement areas, the owner shall agree that any fence, wall, or trees placed upon utility easements are subject to removal at the cost of the property owner if required for the maintenance or improvement of the utility, and that if such landscape improvement is required for screening as defined in this Section that it shall be the responsibility of the owner to reinstall or plant new landscaping to meet the screening requirement..

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C. **Required Tree Planting.** Except for lots and parcels developed prior to the adoption of this Ordinance, new development shall have the following minimum landscape requirements:

1. All required tree planting plans shall have a mixture of conifer and deciduous trees.
   a. Coniferous trees shall not be located within 50 feet of a street loaded driveway.
2. In all commercially zoned districts, new development shall include a planting rate of one (1) tree for every 100 feet of frontage along all roads. The required trees shall be planted within 10 feet of the front property line, or right-of-way line. Parking lot island tree planting requirement does not count towards this number. The Main Street District is exempt from this requirement.
3. Industrial zoned property with street frontage along Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3 must meet commercial tree requirements.
4. In all Rural Living and Garden Living Base Zoning Districts new parcels or lots shall include plantings at the rate of one (1) tree per 3,000 square feet of undeveloped or open space area. Requirement does not include delineated wetland area.
5. In all Contemporary Neighborhood and Traditional Neighborhood Base Zoning Districts new lots or development shall include landscape plantings as identified in Table [515-4-10.2]. A minimum of one deciduous tree shall be planted in the front yard within 10-feet of the front property line, or right-of-way line.

Table 515-4-10.2. Required Tree Planting in CN and TN Zoning Districts

Lot width	Number of trees	Spacing on center
45-60'	1	Per each 20'
65'+	1	Per each 25'

   a. Required trees may be planted at uniform intervals, at random, or in groupings. Newly planted trees shall comply with the requirements of this Ordinance. Trees retained on site following development can be reduced from the total required plantings.
   b. Trees that shall not be planted and do not count towards the required planting include the following: Amur Maple, Black Locust, Norway Maple, Russian Olive, Siberian Elm, Poplar, and Cottonwood.

D. **Green Space.**

1. **Non-Residential Site Development and Non-Residential Site Redevelopment.** Each Base Zone District shall set a maximum impervious surface coverage as defined in Base Zoning District. The remaining area shall be considered green space which may be used for stormwater management, raingardens, wetland areas and required buffers, and landscaping. A minimum of fifty (50) percent of the required green space shall be located along the street frontage with the most traffic and visibility, or adjacent to any residential use or residentially zoned property to provide a buffer between the non-residential use or structure.

E. **Screening.**

1. Landscape Plan. Prior to approval of a building permit, a landscape plan and planting schedule shall be approved. The planting schedule shall include species, size of plantings, mature size, and site location. The landscape plan shall be developed with an emphasis upon the following areas:
   a. The boundary or perimeter of the proposed site adjoining other property.
   b. The immediate perimeter of the structure.
   c. The perimeter of parking and loading areas.
2. Requirements. All landscaping incorporated in said Plan shall conform to the following standards and criteria:
   a. All plants must at least equal the following minimum size:

Table 515-4-10.3: Minimum Landscape Plant Standards.

		Potted/Bare Root or Balled or Burlapped
Shade Trees*		1 ½ inch diameter
Ornamental Trees (Flowering Crab, Hawthorn, etc.)		1 ½ inch diameter
Evergreen Trees		4 - 5 feet high
Tall Shrubs and Hedge Material (Evergreen or Deciduous)		2 ½ feet high (5 gallon)
Low Shrubs:	Deciduous	12 – 24 inches (2 gallon)
	Evergreen	12 – 24 inches (2 gallon)
	Spreading Evergreens	6 – 18 inches (2 gallon)
Perennials	Hardiness Zones 2-4	(1 gallon)
Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, man-made irrigation, grading, etc.) ** All required plantings must be of approved nursery stock.*		

3. Recommended Plant Species for Screening. A Landscape Plan should incorporate a variety of different species to promote visual interest and plant resilience. The following is a list of plant species based on the required screening categories. Substitutions can be made with approval from the Zoning Administrator.

   a. *Four (4) foot high plant screening approved shrubs.*

      i. Deciduous Shrubs: Spirea, Potentilla, Weigela, Honeysuckle, Ninebark, Alpine Currant, Compact Viburnum, Hydrangea, Boxwood, Dwarf Korean Lilac, Dogwood, Chokeberry, Serviceberry, Dwarf Arctic Willow, Globe Peashrub, Cotoneaster.

      ii. Evergreen Shrubs: Sea Green Juniper, Globe Arborvitae, Maney Juniper, Taunton's Yew, Mugo Pine.

   b. *Six (6) foot high plant screening approved shrubs.*

      i. Deciduous Shrubs: Red Prince Weigela, Ninebark, Compact Viburnum, Hydrangea, Boxwood, Dwarf Korean Lilac, Miss Kim Lilac, Dogwood, Chokeberry, Serviceberry, Dwarf Arctic Willow, Globe Peashrub, Cotoneaster.

      ii. Evergreen Shrubs: Pyramidal Arborvitae, Techney Arborvitae, Maney Juniper, Tannenbaum Mugo Pine, Sky High Juniper, Wichita Blue Juniper.

F. **Design**.

1. All land area disturbed as result of development activities not planned for improvements within the property lines (or beyond, if site grading extends beyond) must be restored and revegetated with seed or sod and landscaping as approved within the Landscape Plan.

2. Newly established or created turf slopes in excess of three to one (3:1) are prohibited unless approved by the Zoning Administrator.

G. **Parking Lots.**

1. All exposed parking areas of ten (10) or more spaces in a front and side yard abutting a public street right-of-way shall be landscaped. Industrial zoned property is exempt from this requirement except for those business with street frontage along Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3.

2. One (1) shrub shall be planted for every five (5) lineal feet of parking lot perimeter that is adjacent to a public street. Two (2) perennials can be substituted for one (1) shrub. Plants shall be two (2) feet to four (4) feet in height and designed in a way to screen the parking lot from street view.

3. When a parking lot is across the street from a residentially zoned property, the required screen heigh shall be four (4) feet. Refer to Table [515-4-10.1] Plant Spacing Requirements for Screening.
4. When a parking lot is adjacent to or across an alley from a residentially zoned property, the required screen height shall be increased to six (6) feet. Refer to Table [515-4-10.2] Plant Spacing Requirements for Screening.
   a. Alley screening requirement is only necessary when parking stalls or drive through lanes are facing a residentially zoned property.
5. A four (4) foot high wall or fence constructed of masonry, brick, wood, or vinyl may be used for required screening. The area between the parking lot and a wall or fence shall be planted with grass or established with landscape material.
6. A chain link fence with or without slats is not permitted to satisfy screening requirements.
7. Landscape material is required on the exterior, or finished side of a fence with maximum spacing required as follows:
8. Off-street parking facilities with internal parking rows of five (5) or more spaces shall incorporate irrigated landscaped islands on both ends of the row as part of the design. Landscaped islands shall be a minimum of six (6) feet wide and extend the length of the parking stall. The islands shall be contained within curbed beds. When internal parking rows contain twenty (20) or more parking stalls, landscape islands shall be provided so that there is not a continuous row of over ten (10) parking spaces.
   a. In lieu of irrigated islands, drought tolerant plant materials may be used. Plant material information shall be provided to verify drought tolerance.
   b. Recommended drought tolerant shrubs include: Spirea, Potentilla, Alpine Currant, Dwarf Bush Honeysuckle, Lilac, Ninebark, Juniper, Spruce.
   c. Recommended drought tolerant perennials include: Russian Sage, Coneflower, Black Eyed Susan, Catmint, Salvia, Veronica, Yarrow, Sedum, Daylily, Ornamental Grasses.
   d. At least fifty (50) percent of each interior landscaped area shall be covered by living plant material, such as sod shrubs, perennials, and ground cover or trees.
   e. One (1) tree is required in every parking lot island.
   f. It is not the intent of this Section to relieve a project from the installation of islands or peninsulas that are necessary to promote the safe and efficient flow of traffic, regardless of parking lot size.
   g. No landscaping or screening shall interfere with drive or pedestrian visibility for vehicle entering, circulating or exiting the premises.

H. **Installation and Maintenance.** The following standards shall be observed where installation and maintenance of landscape materials are required:

1. Installation. Landscaping shall be installed in the manner recommended by the manufacturer. Wire and rope caging and non-degradable burlap around tree root balls shall be removed during planting.
2. Landscape Guarantee. All new plants shall be guaranteed for one (1) full year from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or shall be replaced.
3. Protection from Vehicles. Landscaping shall be protected from vehicles through use of curbs or wheel stops in parking lots.
4. Seeding or Sodding/Off-Season Planting Requirements. Lots or parcels shall be established with seed or sod prior to issuance of a Certificate of Occupancy or property use. If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season.

5. Maintenance. Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. A healthy, neat and orderly appearance includes proper pruning, regular mowing of lawns, and removal of all litter and the replacement of dead and unhealthy plant material. All unhealthy and dead plant material shall be replaced immediately upon notice from the City of Brainerd, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.

   a. All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within 300 feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.

   b. *Exception.* Some requirements of preceding Subsection (E.) may be waived if a drought tolerant landscape plan is approved and proper maintenance and management plan is established specifically for the plant schedule identified.

   c. Maintenance of a required buffer plantings shall be the responsibility of the individual property owners or, if applicable, the homeowner's association.

   d. All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed. Replacement of landscape materials or plantings in a required buffer shall be consistent with the original screen design. All repair or replacement of plantings in a required buffer shall be done within ten (10) days of written notification from the City.

515-4-11 Fence Standards.

A. **Permit Required.** A fence permit is required for any fence, partition, structure, wall or gate constructed within the required yard.

B. **Fence Exemptions.** Fences which are ninety (90) percent open (barb wire, chain link, woven wire, and other similar type fences) which are used for containing non-domestic animals within the RL-1, RL-2 and GL Zoning Districts are not subject to the provisions of this Section and do not require a fence permit.

C. **Fencing Sketch Plan.** An application for a fence permit shall be accompanied by a scaled Sketch Plan providing lot dimensions, the location of existing buildings, structures, and easements on the lot, and the location of the proposed fence. Burden of proof for property line and pin locations shall be the responsibility of the property owner.

D. **Fence Location.** All fences or walls shall be located entirely within the property of the person or firm constructing the fence unless the owner of the adjoining property agrees, in writing, that such fence may be erected on the common property line of the respective properties.

   1. No fence or wall shall be permitted on public rights-of-way.
   2. Traffic visibility requirements set forth in the Base Zoning District shall be met.
   3. No fence or wall shall obstruct natural drainage or extend within a wetland, drainage ditch, stream, or river.
   4. Fences may be constructed within utility and drainage easements with the written permission of the Zoning Administrator.
   5. Wire fences other than chain link are not permitted within five (5) feet of the property line.
   6. All fences shall be located at least four (4) feet from an alley right-of-way.

E. **Fence Construction and Maintenance.**

   1. Every fence shall be constructed in a professional manner and of substantial materials reasonably suitable for the purpose for which it is intended. The materials and design shall be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.

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2. Every fence shall be regularly maintained and shall not become or remain in a condition of disrepair, or constitute a nuisance.
3. All posts or similar supporting devices used in the construction of fences shall face inward toward the property being fenced. That side of the fence considered to be the face shall be oriented toward abutting property or rights-of-way.
4. Electric and barb wire fences are prohibited in residential districts.
5. Within non-residential districts, barbed wire may be attached to the tops of fences with the following conditions:
   a. Fences shall be a minimum of eight (8) feet in height exclusive of the security arm.
   b. The security arm shall be angled in such a manner that it extends only over the property of the permit holder.
   c. Wire security fencing shall not be permitted within the required front yard or along a property line abutting a residential use.
6. Solid walls, including retaining walls in excess of forty-eight (48) inches in height require a building permit.
7. The good or finished side shall face the neighboring property.
8. All fences that completely enclose an area shall contain a gate to provide public safety access.

F. **Fence Height.**

1. Fences may be located in any yard up to a height of four (4) feet.
2. Except as prohibited by Section [D] a fence up to six and one half (6½) feet high may be erected from a line extended from the front façade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line (see Figure 515-4-11.1).
3. Fence height shall be measured from the adjacent ground level to the top of the fence section on the side facing the neighboring property. Fence posts above the fence section and ornamental post features are exempt from the height limits.

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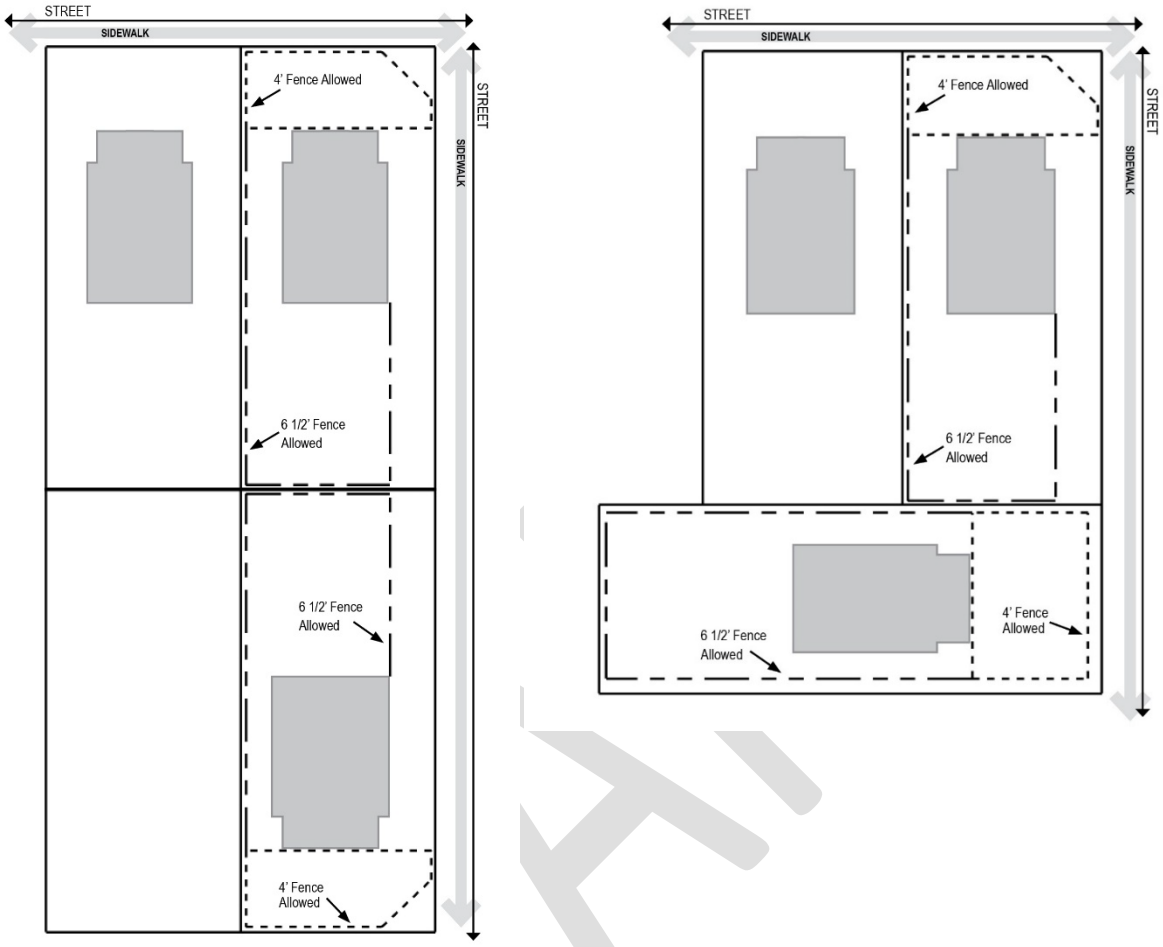
Figure 515-4-11.1 Fence Height Lot Diagrams



4. Height Exceptions.
   a. Fences for sport courts may be up to 12 feet in height with ten (10) foot setback from any property line, and must be located behind the principal structure
   b. Residential fences up to eight and one half (8½) feet in height are permitted along a property line abutting a commercial, industrial, or semi-public use or non-residential zoning district.
   c. Non-residential fences up to eight and one half (8 ½) feet in height are permitted. Such fences in a front yard must be ninety (90) percent open.
   d. Fences taller than eight and one half (8½) feet in non-residential districts require a Conditional Use Permit.

515-4-12 Off-Street Parking

A. **Purpose and Intent.** The regulations of off-street parking spaces within this Ordinance is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the pubic establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

B. **Application of Off-Street Parking Regulations.** The regulations and requirements set forth herein shall apply to all off-street parking facilities, except single-family detached and duplex dwellings, in all of the Zoning Districts of the City.

C. **Sketch Plan Drawing Necessary.** Applications for a change of use, new construction or expansion in all Zoning Districts shall be accompanied by a Site Plan drawn to scale and dimensioned and indicating the location of off-street parking, loading spaces, driveways, and curb cuts in compliance with the requirements set forth in this subdivision and Section [515-5-9] of this Ordinance.

D. **Exemptions from Parking Requirements.** All uses located within the Commercial Corridor (CC), General Commercial (GC), Town Center (TC), Main Street (MS), and General Industrial (GI) Zoning District shall be exempt from the following off-street parking requirements of this Ordinance.

E. **General Provisions.**

1. Space Reduction. Existing off-street parking spaces upon the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.

2. Existing Uses. Should a legal, non-conforming building, structure, or use in existence upon the effective date of this Ordinance be damaged or destroyed by fire or other cause, it may be re-established in accordance with Section [515-5-10] of this Ordinance, except that in so doing, any off-street parking or loading which existed shall be retained.

3. Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this Ordinance.

4. Use of Parking Area. Required off-street parking space in any district shall not be utilized for storage of goods or for the storage of vehicles which are inoperable or for sale or for rent.

5. Accessible Parking. All parking associated with any building, structure or use shall be required to conform to the disability accessible parking standards pursuant to Minnesota State Statutes 168.021, as may be amended.

6. Parking for Residential Uses. Off-street parking areas accessory to a residential use shall be utilized solely for the parking of passenger automobiles, recreational vehicles, and/or one (1) truck not to exceed 12,000 pounds gross weight rating for each dwelling.

7. Use of Required Parking Facilities for Commercial and Industrial Uses. Required off-street parking spaces in commercial and industrial districts shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles.

F. **Calculating Space.**

1. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent, except when floor plans are submitted that identify net usable floor area of the building exclusive of ancillary floor areas that do not generate parking demand (e.g., stair wells, hallways, restrooms, closets, utility rooms).

2. When determining the number of off-street parking spaces results in a fraction, each fraction of one-half (½) or more shall constitute another space.

3. In gymnasiums, places of worship and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four (24) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements.

4. Except as provided for under joint parking and shopping centers, should a building contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required. Warehouse area associated with retail uses shall have parking requirements calculated separately from the retail requirements.

G. **Access and Driveway Design.**

1. Collector/Minor Arterial Street Access. Access to any street shown as a collector or arterial roadway on the City's Comprehensive Plan shall require review and comment by the affected agency (County Highway Engineer or MnDOT) and City. This review shall be required prior to the issuance of any building permits. The County or City Engineer shall determine the appropriate location, size and design of each access drive and may limit the number of access drives in the interest of public safety and efficient traffic flow.
2. Street/Alley Access. Except in the case of single, two family and townhouse dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single-family detached and single-family attached dwellings, parking area design which requires backing into the public street is prohibited.
3. MnDOT Highway Access. A MnDOT permit is required to create, modify or to change an access to a State highway.
4. Curb Cut/Driveway Access Location.
   a. No residential curb cut/driveway access shall be located less than 30 feet from the intersection of two (2) or more local street rights-of-way. Minimum distance from an intersection for commercial uses shall be 60 feet. This distance shall be measured from the intersection of lot lines. Curb cut/driveway access setbacks from the intersection of streets with higher functional classifications shall be consistent with the recommendations of the Comprehensive Plan and require approval by the City Engineer.
   b. Street functional classification shall be defined by the City's Comprehensive Plan.
   c. The setback measurement shall be measured from the edge of the street right-of-way to the nearest edge of the curb cut.
   d. Driveways onto arterials and major collectors shall be prohibited where alternative street access is available. For existing lots of record, where alternative access is not available, direct access onto arterial and major collectors may be permitted, provided a Sketch Plan is submitted for review and approval of the City Engineer. Approval is also subject to the provisions of this Ordinance.
5. Residential uses in residential zoning districts may construct driveways and parking areas up to the property line but shall not encroach within drainage and utility easements.
6. Non-residential uses in residential Zoning Districts and uses in all other Zoning Districts, driveways and parking stalls shall be set back a minimum of three (3) feet from side and rear property lines. The City may allow an exception to the required setback to accommodate a shared driveway along a common property line, provided the following conditions are met:
   a. Access easements are established and recorded over the shared driveway in favor of each affected property owner.
   b. A maintenance agreement between the property owners is established and recorded for the shared driveway.
7. Each lot and parcel shall be entitled to at least one (1) curb cut. Lots and parcels shall be allowed one (1) curb cut access for each 125 feet of street frontage. Corner lots and parcels are allowed one (1) curb cut access plus one (1) additional curb cut access for frontages over 125 feet.
8. Curb Cut/Driveway Width. No curb cut shall exceed 30 feet in width as measured at the street right-of-way line. Commercial and Industrial properties requiring larger curb cuts to accommodate truck turning radii shall be allowed to have curb cuts up to 36 feet in width. Access to a collector or arterial roadway shall require review and approval by the City Engineer and any other affected agency.

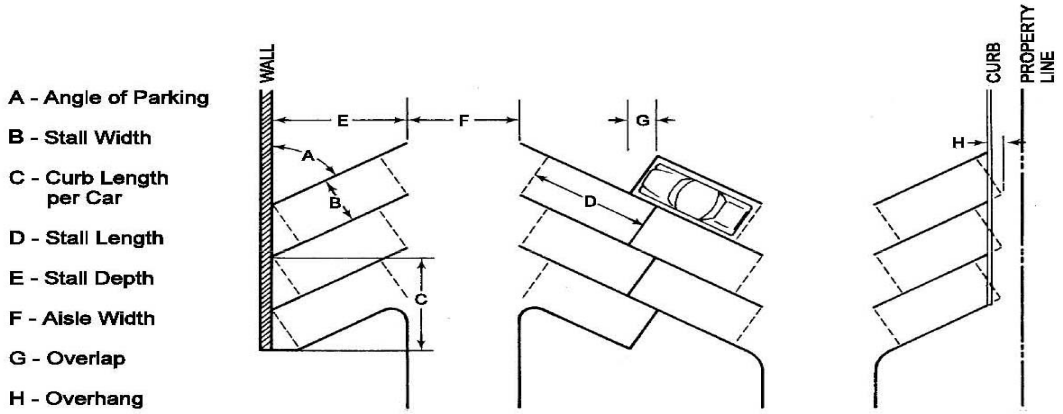
H. **Parking Surface Design Standards.**

1. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the standards established in the Table [515-4-12.1] and Figure [515-4-12.1] as follows:

Table 515-4-12.1: Parking Area Standards.

Angle of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Length (D)	Stall Depth Wall to Aisle (E)	Stall Depth Interlock to Aisle	Aisle One Way (F)	Aisle Width Two Way (F)
90°	10' 0"	10' 0"	18' 0"	18' 0"	18' 0"	24' 0"	24' 0"
75°	10' 0"	9' 6"	18' 0"	20' 8"	19' 10"	21' 6"	23' 0"
60°	10' 0"	10' 5"	18' 0"	21' 0"	19' 10"	18' 0"	22' 0"
45°	10' 0"	12' 9"	18' 0"	19' 10"	17' 10"	15' 0"	22' 0"
0°	10' 0"	22' 0"	22' 0"	9' 0"	9' 0"	12' 0"	24' 0"

Figure 515-4-12.1: Parking Area Diagram.



2. Semi-Tractor Trailer Parking. Semi-tractor trailer parking shall be in stalls designated for such parking in terms of width and length. Parking of semis lengthwise across standard parking stalls shall be prohibited.
3. Within Buildings. The off-street parking requirements may be furnished by providing a space so designed within the principal building or one (1) structure attached thereto. No building permit shall be issued to convert said parking building into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Ordinance.
4. Grade Elevation. Excepting driveways for single-family detached and duplex dwellings, the grade elevation of a parking area shall not exceed five (5) percent.
5. Surfacing.
   a. *One- and two-family residential parking surface requirements.* An improved parking surface for residential parking in all residential districts except RL-1 and RL-2 includes concrete, bituminous (pervious or impervious), pavers (pervious or impervious), brick, Class V, pea gravel and stones. Class V, pea gravel, stone, and grass are permitted unimproved surfaces for residential uses as described in this Section.
      i. No more than forty (40) percent of a property can be improved parking surfaces.
      ii. Parking is permitted on an improved and unimproved surface in the rear yard.

iii. The width of a garage plus an additional forty (40) percent of the width of the garage can be surfaced for a driveway in the front and side/corner yards.

iv. Parking in front and side street yards is allowed on concrete, bituminous and pavers/brick. Material such as Class V, rocks, pea gravel and stone are not allowed.

v. A driveway without a garage shall extend into the yard alongside a dwelling twenty-four (24) feet.

vi. Parking along an interior side of a house is permitted on an improved surface.

b. *Multiple family and non-residential parking surface requirements.* All areas intended to be utilized for parking space and driveways shall be surfaced with concrete, bituminous, and pavers/brick. The City may allow up to twenty-five (25) percent of required parking stalls or one hundred (100) percent of seasonal or overflow parking in excess of that required to be provided as green parking with a turf surface which is supported by a City approved parking lot sub-base and turf guard fabric.

i. Plans for surfacing and drainage of driveways and stalls for ten (10) or more vehicles shall be submitted to the City Engineer for review and the final plans shall be subject to the City Engineer's written approval.

ii. Plans for surfacing and drainage of driveways shall be reviewed and approved by the Zoning Administrator prior to issuance of a building permit. Said surfacing shall be completed within one (1) year following the date of building occupancy permit.

6. Striping. Except for single, two family or townhouses, all parking stalls shall be marked with white or yellow painted lines not less than four (4) inches wide.

7. Lighting. Any lighting used to illuminate an off-street parking area shall be arranged as to reflect the light away from the adjoining property. All exterior lighting shall comply with Section [515-4-8] of this Ordinance.

8. Cart Storage. Retail commercial uses that have customer service carts shall be required to provide ample space for the storage of carts within off-street parking areas, subject to the approval of the Zoning Administrator. The need and specific amount of required cart storage space shall be determined as part of the Site Plan review. When required, cart storage areas shall not occupy required off-street parking space, shall be clearly delineated, and shall include facilities for cart confinement.

I. **Maintenance.** It shall be the joint responsibility of the operator and owner of the principal use, uses and/or buildings to maintain, in a neat and clean manner, the parking space, access ways, landscaping and required screening.

J. **Ownership.**

1. Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Sections [515-3-30] of this Ordinance.

K. **Number of Spaces Required.** The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth.

1. Auto, Boat, Trailer, Farm Equipment and Other Outdoor Sales Lots. One (1) space per four hundred (400) square feet gross sales and office floor area and of the building plus one (1) space per each two thousand (2,000) square feet of gross outdoor sales lot area.

2. Auto Repair. Two (2) spaces per serving bay; the service bay is not a parking space, plus one (1) for each employee on the maximum shift.

3. Boarding House. At least one and one-half (1½) parking spaces per boarding room.

4. Bowling Alleys. Five (5) spaces for each alley plus additional spaces for related uses.

5. Car Washes (Drive Through and Self Service). One (1) space per employee plus: Drive through: Six (6) stacking spaces. Self-service: One (1) stacking space per wash bay.

6. Places of Worship. At least one (1) parking space for each four (4) seats based on the design capacity of the main assembly hall, plus one (1) space for each church employee. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Ordinance.
7. Community Centers, Libraries, Private Clubs, Lodges, Museums, Art Galleries. One (1) space for each three hundred (300) square feet of floor area in the principal structure.
8. Contractors' Offices, Shops and Yards. One (1) per 1,000 square feet of shop area or warehousing, plus one (1) per 300 square feet of office space.
9. Day Care Facilities.
   a. Day care facilities serving fourteen (14) or fewer persons. In addition to residential parking requirements, one (1) space per seven (7) children capacity.
   b. All other day care facilities. One (1) space per teacher on the largest shift, plus one (1) space per ten (10) students/children based on maximum capacity of the facility.
10. Elderly (Senior Citizen) Housing. Reservation of area equal to one (1) parking space per unit. Initial development is, however, required of only one-half (½) space per unit and said number of spaces can continue until such time as the City Council considers a need for additional parking spaces has been demonstrated.
11. Financial Institutions, Banks, Savings and Loan. Four (4) spaces for every 1,000 square feet.
12. Funeral Undertaking Establishments. At least 20 parking spaces for each chapel or parlor, plus one (1) parking space for each funeral home vehicle. Drive aisle space shall also be provided off the street for making up a funeral procession.
13. Furniture Store/Household Appliances. One (1) space per 400 square feet of gross sales floor area. One (1) space per 1,500 square feet of warehousing.
14. Garden Supply Stores, Building Material Sales in Structures. Eight (8) off-street parking spaces, plus one (1) additional space for 800 square feet of floor area over 1,000 square feet.
15. Golf Courses. Four (4) spaces per hole, plus fifty (50) percent of the requirements for any other associated use.
16. Golf Driving Ranges, Miniature Golf Courses and Other Outdoor Commercial Recreational Uses. Ten (10) off-street parking spaces plus one (1) for each two hundred (200) square feet of activity area.
17. Health Clubs. One (1) space per two (2) exercise stations (e.g., strength machine or cardiovascular) plus one (1) space per employee on the largest shift plus additional parking for ancillary uses (e.g., gymnasiums, auditoriums, offices, restaurants).
18. Hospitals. Three (3) spaces per bed.
19. Manufacturing Facilities. One (1) space for every 800 square feet of gross floor area, plus one (1) space for every company owned vehicle.
20. Motels and Hotels. One (1) space per each rental room/suite plus one (1) space for each eight (8) units, and one (1) space for each employee on any shift.
21. Motor Fuel Stations. At least four (4) off-street parking spaces plus one (1) space for each employee on duty. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this Ordinance.
22. Office Buildings, Animal Hospitals and Clinics, Professional Offices and Medical Clinics. One (1) space for every 200 square feet of floor area.
23. Sales Lots. Ten (10) spaces or one (1) per 2,000 square feet gross land area devoted to sales lot, whichever is larger.

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24. Racquetball, Handball and Tennis Courts, Commercial. Not less than six (6) spaces per each court.
25. Rest Home, Nursing Home, Convalescent Center, or Institution. One (1) space for each six (6) beds based upon maximum design capacity, plus one (1) space for each two (2) employees.
26. Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On-Sale Nightclubs. One (1) space per 40 square feet of dining or bar area and one (1) space per 80 square feet of kitchen area.
27. Restaurants, Fast Food. Fifteen (15) spaces per 1,000 square feet of gross floor area.
28. Retail Sales and Service Business with Fifty (50) Percent or More of Gross Floor Area Devoted to Storage, Warehouses and/or Industry. At least eight (8) spaces or one (1) space per 200 square feet devoted to public sales or service, plus one (1) space per 500 square feet of storage area.
29. Retail Stores and Service Establishments. At least one (1) off-street parking space per 200 square feet of floor area.
30. Schools: Colleges and Universities. At least one (1) parking space for each two (2) students based on the design capacity plus one (1) space for each classroom. Auditorium or event space shall be subject to separate, additional calculations.
31. Shopping Centers. Five and one half (5 ½) spaces per 1,000 square feet of gross leasable floor area (exclusive of common areas).
32. Single Family, Duplex, and Accessory Apartments. Two (2) spaces per unit.
33. Theaters, Civic Centers, Auditoriums, Stadiums, Sports Arenas or Similar Uses. One (1) space for each four (4) seats plus one space for each two (2) employees.
34. Attached Single-Family Dwellings, Multi-Family and Manufactured Homes within Manufactured Home Parks. At least two and one-fourth (2 ¼) rent-free spaces per unit. In projects involving eight (8) or more units, the City may require additional clustered guest parking spaces based upon calculation of required demand.
35. Warehousing, Storage of Handling of Bulk Goods. That space which is solely used as office shall comply with the office use requirements and one (1) space per 1,500 square feet of floor area, and one (1) space for each company owned truck (if not stored inside principal building) or one (1) space for each employee, whichever is greater.
36. Other Uses. Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council upon recommendation by the Planning Commission. Factors to be considered in such determination shall include (without limitation) the national parking standards for size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.

L. **Parking Deferment.** The Planning Commission may allow a reduction in the number of required parking stalls for commercial, industrial, and public/semi-public uses provided that:

1. The applicant demonstrates that the proposed use will have a peak parking demand less than the required parking as defined in [K.] of this Section. Factors to be considered when reviewing the proposed parking demand shall include, but not be limited to:
   a. Size of building.
   b. Type of use.
   c. Number of employees.
   d. Projected volume and turnover of customer traffic.
   e. Projected frequency and volume of delivery or service vehicles.
   f. Number of company-owned vehicles.

g. Storage of vehicles on site.

2. In no case shall the amount of parking provided be less than one-half (½) of the amount of parking required by this Ordinance.

3. The site has sufficient property under the same ownership to accommodate the expansion of the parking facilities to meet the minimum requirements of this Ordinance if the parking demand exceeds on site supply. A proof of Parking Plan is submitted for City approval that meets the following conditions:

   a. A Parking Plan drawn to scale for the property is submitted with the Sketch Plan and indicates that the site complies with the total parking requirements stated above and with the Parking Lot Design to the standards required by this Ordinance.

   b. The proof of parking area is defined as that portion of the site which is not paved, but is suitably landscaped and is capable of containing the amount of parking equal to the difference between the total amount of required parking and the amount of parking required to be paved to meet the requirements of this Ordinance.

   c. The proof of parking area shall be clearly delineated on the Parking Plan for the site.

   d. The paved portion of the parking area shall comply with this Sections.

   e. The proof of parking area is not used to satisfy any other landscaping, setback, or other requirement of this Ordinance and is not located in an area occupied by a building or an easement.

4. The property owner is responsible for informing any subsequent owner of the proof of parking area and parking status of the property and shall record said provision with the County Recorder.

5. On-site parking shall only occur in areas designed and constructed for parking in accordance with this Ordinance.

6. The applicant and City enter into a development agreement, to be recorded against the subject property, which includes a clause requiring the owner to install the additional parking stalls, upon a finding of the City that such additional parking stalls are necessary to accommodate the use.

7. A change of use will necessitate compliance with the applicable Zoning Ordinance standard for parking.

M. **Joint Facilities.** Required parking facilities serving two or more uses may be located on the same lot or in the same structure provided that the total number of parking spaces furnished shall be not less than the sum of the separate requirements for each use, during any peak hour parking period when the parking facility is utilized at the same time by two or more uses. Conditions required for joint use:

1. The proposed joint parking space is within the distance required under [M.] of this Section of the uses it will serve.

2. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

3. A properly drawn legal document approved by the City Council, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk.

N. **Off-Site Parking.** Any off-site parking which is used to meet the requirements of this Ordinance shall be subject to the following conditions:

1. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Ordinance.

2. Reasonable public access from off-site parking facilities to the use being served shall be provided.

3. The site used for meeting the off-site parking requirements of this Ordinance shall be under the same ownership as to the principal use being served or under public ownership.

4. Off-site parking for multiple family dwellings shall not be located more than 400 feet from any normally used entrance of the principal building(s) served.
5. Off-site parking for non-residential uses shall not be located more than 800 feet from the main entrance of the principal building(s) being served. No more than one (1) main entrance shall be recognized for each principal building.
6. Any use which depends upon off-site parking to meet the requirements of this Ordinance shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

515-4-13 Off-street Loading.

A. **Purpose and Intent.** The regulation of off-street loading areas is to alleviate or prevent congestion of the public right-of-way to promote the safety and welfare of the public by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the appropriate utilization of various parcels of land or structures.

B. **Location.**

1. All required loading areas shall be off-street and shall be located on the same lot as the building or use to be served. A loading area shall be located at least 50 feet from the intersection of two (2) street rights-of-way and at least 50 feet from a residential district unless within a building.
2. Loading areas shall not occupy areas within the required front yard setbacks.
3. Each loading area shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic on both on- and off-site.
4. Loading areas located at the front or side of a building on a corner lot shall meet the following conditions:
5. Loading areas shall not conflict with pedestrian movement.
6. Loading areas shall not obstruct the view of the public right-of-way from off-street parking access.
7. Loading areas shall comply with all other requirements of this Ordinance.

C. **Surfacing.** All loading areas and access ways shall be improved with a bituminous surface or equally durable material to control the dust and drainage approved by the City Engineer.

D. **Accessory Use, Parking and Storage**. Any space allocated as a loading area or maneuvering area must comply with the terms of this Ordinance and shall not be used for the storage of goods, inoperable vehicles or snow, or be included as a part of the space requirements necessary to meet the off-street parking area requirements.

E. **Screening**. All loading areas, except in the case of multiple family dwellings, shall be screened and landscaped from abutting and surrounding residential uses and the public right-of-way in compliance with Section [515-4-9] of this Ordinance.

F. **Size.** Unless otherwise specified in this Ordinance, a required loading area shall be not less than twelve (12) feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space. Additional loading areas shall be not less than twelve (12) feet in width and twenty-five (25) feet in length.

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515-5 RULES AND ADMINISTRATION.

515-5-1 Zoning Administrator Duties and City Staff. The City Council shall appoint one, or multiple, Zoning Administrator(s). The appointed Zoning Administrator shall have the authority to request assistance from other City Staff as needed to effectively implement this Ordinance. The Zoning Administrator shall enforce this Ordinance and shall perform the following duties:

A. Maintain permanent and current records of this Ordinance, including but not limited to maps, amendments, variances and conditional uses.

B. Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.

C. Institute in the name of the City, any appropriate actions or proceedings against a violator as provided for.

D. Serve as an ex-officio non-voting member of the Planning Commission.

E. The Zoning Administrator shall work with any applicable City Staff, to enforce the provisions of this Ordinance.

F. If the provisions of this Ordinance are being violated, the Zoning Administrator shall notify in writing the property owner or property owner and tenant if rental property for such violations pursuant to Section [515-5-11]. The City shall order discontinuance of illegal use of the land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Section to ensure compliance with or to prevent violation of provisions of this Ordinance.

G. **Certificates of Zoning Compliance Required.**

1. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
2. Building permits, Conditional Use Permits, or Certificates of Zoning Compliance shall be issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.
3. Any use, arrangement, or construction of a structure without an approved Variance shall be deemed a violation of this Ordinance, and punishable as provided by Section [515-5-11] of this Ordinance.
4. The Building Official, in consultation with the Zoning Administrator, may refuse to issue a Certificate of Occupancy for any building or structure so long as any violations of this Ordinance exist on the premises or there remains any unsatisfied conditions related to any permit or Variance applicable to the premises.
5. Zoning Coordination**.** Any Zoning District amendment on land adjacent to or across a public right-of-way from an adjoining county or community shall be referred to the governing unit of the adjacent community for review and comment prior to action by the City Council granting or denying the zoning district classification change. A period of at least ten (10) days shall be provided for receipt of comments; such comments shall be considered as advisory only.

H. **Land Use Application Procedures Summary.**

1. The following Table 515-5-1.1 is provided to summarize and identify the land use application and associated process for each application as described in this Section. The requirements and standards for each land use application are provided within the following Sections and are referenced in the Table. The decision-making body review identifies the minimum requirements for processing a land use application. The City Council retails the ability to request additional review from any of its recommending bodies.

Table 515-5-1.1. Land Use Application Review Procedures.

Land Application Review Procedures						
Procedure	**Section Reference**	**Public Hearing**	**MN State Statute 15.99**	**If City Council is checked, they are the final decision-making body.**		
Land Use Application				***Staff***	***Planning Commission***	***City Council***
Zoning Amendment (Text or Map)	515-5-6	X	X	X	X	X
Comprehensive Plan Amendment (Text or Map)	515-5-6	X	X	X	X	X
Variance	515-5-4	X	X	X	X	X
Appeal to a Variance or Land Use Decision	515-5-11.D.			X		X
Conditional Use	515-5-2	X	X	X	X	X
Interim Use	515-5-3	X	X	X	X	X
Site Plan Review[1]	515-5-5		X	X	X	X
Planned Unit Development (PUD)						
• Pre-Application Meeting	515-5-7.J.			X		
• General Concept Plan	515-5-7.J-K			X	X	X
• Development Stage Plan	515-5-7.M	X	X	X	X	X
• Final Plan	515-5-7.N		X	X	X	X
Administrative Permit	515-5-9		X	X		
Sketch Plan[2]	515-5-9		X	X		
Environmental Review[3]	NA			X		X

[1] Site Plan Review subject to public hearing, Planning Commission and City Council review when required as part of another Land Use Application process.

[2] Sketch Plan subject to public hearing, Planning Commission and City Council review when required as part of another Land Use Application process.

[3] Environmental Review must follow Minnesota State Statutes regarding process and review timeline. This City hereby incorporates the procedures and requirements by reference.

I. Other Agency Review and Review Timelines.

1. Minnesota State Statutory Review Procedures for Land Use Applications. As identified in Table [515-5-1.1] of this Section, certain land use applications are subject to the rules of procedure and deadlines for action as established within Minnesota State Statutes. The City Council shall follow the rules and requirements as

established by Minnesota State Statute which may be updated from time to time. The following summary of current statutory requirements is provided.

a. *Minnesota State Statute 15.99*. Pursuant to Minnesota Statutes 15.99, a land use applicant shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the Zoning Administrator is hereby authorized to extend the 60-day time limit by a time period not to exceed 60 additional days, provided that written notice of such extension is provided to the applicant before the end of the initial 60-day period. The reason for the extension must be provided in the extension letter and must include the date through with the extension is made. The applicant may also request an extension to the review timeline.

b. *Minnesota State Statutes 462.358*. Certain land use applications also include the requirement that a preliminary and final plat be prepared. For applications including any plat process, Minnesota State Statutes 462.358 shall govern the review timeline. An application for a preliminary plat shall be approved or denied within 120 days from the date of a complete submission unless a time waiver is granted by the applicant. A preliminary plat may be approved with conditions or denied with written findings. An application for final plat, shall be approved or denied within 60 days from the date of the complete submission unless a time waiver is granted by the applicant. The application shall be in substantial compliance with the approved preliminary plat, including any modifications required as a condition of preliminary plat approval.

515-5-2 Conditional Use Permits.

A. **Purpose and Intent.** The purpose of the Conditional Use Permit is to provide the City of Brainerd with the discretion and flexibility to achieve the goals and objectives of the comprehensive plan and to determine, what, if any, uses other than those specifically permitted may be suitable within the City's Zoning Districts.

1. Conditional Uses are listed on the Appendix A: Table of Uses. Only Conditional Uses identified on the Table shall be considered and only applications that support the goals and objectives of the Comprehensive Plan; protect and enhance the City's character, serve, in a general way the needs of the citizens; and do not negatively affect the general welfare, public health and safety of the community.
2. In determining whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic to and from the premises, or effects on any adjoining roads and all other factors the City shall deem appropriate for consideration.
3. If a use is deemed suitable, reasonable conditions may be applied to issuance of a Conditional Use Permit, and periodic review of said permit may be required.

B. **Procedure.**

1. Request for Conditional Use Permits, as provided within this Section shall be filed with the City on an official application form. Applications shall be accompanied by a fee as required by this Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator.
2. Proof of Ownership or Authorization. The applicant shall supply proof of ownership or equitable ownership interest, a legal description and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested Conditional Use Permit.
3. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City at least ten (10) days prior to the hearing. Notice of the hearing shall also be mailed to owners of property located within a three hundred and fifty (350) foot radius of the outside of the land to which the conditional use will be applicable. The notice shall include a description of the land and the proposed conditional use. Failure of a property owner to receive such a notification shall not invalidate the proceedings.

4. A copy of the application for the proposed Conditional Use Permit within a Flood Zone shall be mailed to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board so that the Commissioner and Board will receive at least ten (10) days notice of the hearing. Violations to send such notice are punishable under Section [515-5-11].
5. The Zoning Administrator may request the appropriate staff persons to prepare technical reports where applicable and provide general assistance in preparing a recommendation on the request.
6. Criteria for Granting Conditional Use Permits. In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants or surrounding lands. Among other things, the City Council shall make the following findings where applicable.
   a. The proposed use conforms to the Zoning District and is a permitted Conditional Use identified on the Appendix A: Table of Uses.
   b. The proposed use meets the regulations and standards established in this Ordinance
   c. The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
   d. The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
   e. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
   f. The proposed use shall organize vehicular access and parking to minimize traffic congestion in a residential neighborhood.
   g. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.
7. Conditions. In reviewing applications for conditional use permits, the City may attach whatever reasonable conditions are deemed necessary to mitigate anticipated adverse impacts associated with the proposed use, to protect the value of property within the Zoning District, and to achieve the goals of the City's Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting nearby properties from objectionable views, noise, traffic, and other characteristics associated with such uses. Such conditions may include, but are not limited to, the following:
   a. Increasing the required lot size or yard setback dimension.
   b. Limiting the height, size or location of buildings.
   c. Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
   d. Regulating the street width.
   e. Increasing the number of required off-street parking spaces.
   f. Limiting the number, size, location or lighting of signs.
   g. Requiring a berm, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
   h. Requiring dedication of some open or green space.
   i. Regulating the appearance of the facilities or site so that they are harmonious with the neighborhood and City.
   j. The following may be added as conditions to properties in a Flood Zone:

i. Modification of waste treatment and water supply facilities.

ii. Limitations on period of use, occupancy, and operation.

iii. Imposition of operational controls, sureties, and deed restrictions.

iv. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

v. Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

k. A copy of all decisions granting conditional uses within the Flood Zone shall be forwarded by mail to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board within ten (10) days of such action. Violation to send such notice is punishable under Section [515-5-11].

8. Amendments. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate.

   a. An amended Conditional Use Permit application shall be administered in a manner similar to that required for a new Conditional Use Permit, amended Conditional Use Permits shall include requests for changes in conditions, and as otherwise described in this Ordinance.

   b. Whenever an application for a Conditional Use Permit has been considered and denied by the City Council, a similar application for the Conditional Use Permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.

9. Review and Enforcement. If a periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of the land having a Conditional Use Permit shall not be required to pay a fee for said review. A waiver from a public hearing for annual review of a Conditional Use Permit may be granted at the discretion of the City Council.

   a. In the event that the applicant violates any of the conditions set forth in this permit, the City Council shall have the authority to revoke the Conditional Use Permit outlined as follows:

   b. The City shall conduct a public hearing to consider the revocation of a Conditional Use Permit. Notifications shall be distributed and published according to Subsection [B.3]. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council.

   c. In considering revocation, the Planning Commission and the City Council shall consider compliance with the approved conditions of the Conditional Use Permit.

   d. Following a vote by the City Council to revoke the Conditional Use Permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.

   e. Conditional Use Permits issued shall be recorded in the office of the County Recorder as per Minnesota Statutes.

C. **Application.**

1. An applicant applying for a Conditional Use Permit for an accessory use to a single-family detached or single-family attached property shall fill out and submit to the Zoning Administrator a Conditional Use Permit application form and required filing fee. This form shall contain, but not be limited to, the following data unless waived by the Zoning Administrator:
   a. Detailed legal description of the property.
   b. Site Plan showing location of all buildings and structures with dimensions and setbacks.
   c. Planting plan showing pathway system, width and material, screening fences with detail, lighting system, recreational feature, if any.
   d. Landscape plan showing location, species and size of all plant material.
   e. Drainage plan indicating catch basins and underground improvement.
   f. Utility systems for sanitary sewer, water, gas, telephone and electric which shall all be underground for new construction.
   g. Sites adjacent to MnDOT right-of-way shall identify the right-of-way location, dimension from the centerline of the highway to the MnDOT right-of-way line, along with existing and proposed ingress and egress.
   h. Sites adjacent to MnDOT right-of-way shall be submitted to MnDOT for review and comment.
   i. Off-street parking, driveways and access plan.
   j. Off-street loading plan, if any, is necessary.
   k. Plan for adjustment to existing rights-of-way, easements, utilities and new dedications.
   l. Architectural plans showing elevations, entrances, heights, floor plans and material to be used on the exterior.
   m. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measurers, and the relationship of the above to the location of the stream channel. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
2. The applicant applying for a Conditional Use Permit, whether for a principal or accessory use, within a commercial or industrial Zoning District and for any multi-family properties shall fill out and submit to the Zoning Administrator a Conditional Use Permit application form and required filing fee.
3. Submission Materials. The submission for a Conditional Use Permit shall include the following:
   a. Narrative describing the proposed use. The narrative should include the following, as applicable to the application:
      i. Proposed Use
      ii. Description of business or activity to be conducted.
      iii. Number of employees.
      iv. Hours of operation.
   b. Site Plan as described in Section [515-5-5].
      i. The Zoning Administrator shall have the authority to except any of the submission materials identified in Section [515-5-5] Information Required. The Zoning Administrator shall evaluate the proposed use and proposed improvements to determine what materials are necessary to process the proposed application.

D. **Cancellation of Conditional Use Permits.**

1. Unless otherwise specified by the City Council at the time it is authorized, a Conditional Use Permit shall be null and void and expire if the applicant fails to utilize the Conditional Use Permit, or fails to fulfill all required conditions attached thereto within one (1) year from the date of its authorization, unless a petition for an extension of time in which to complete or utilize the permit has been granted by the Zoning Administrator provided that:
   a. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the executed Conditional Use Permit.
   b. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the use or activity permitted in the Conditional Use Permit.
   c. A maximum of one (1) administrative extension by the Zoning Administrator shall be granted.
   d. The extension shall not exceed ninety (90) days from the initial Conditional Use Permit expiration date.
   e. There shall be no charge for the filing of a petition for an administrative extension.
2. If an extension is requested exceeding 90 days, the request must be reviewed and approved by the City Council. Such extension may be granted if:
   a. The conditions described in subsection [1.a.-c.] above are satisfied.
   b. The extension shall not exceed one (1) year from the initial Conditional Use Permit expiration date.
   c. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

E. **Performance Security.**

1. Except in the case of non-income producing residential property (excluding relocated structures), upon approval of a Conditional Use Permit the City shall be provided, where deemed necessary by the City Council, with a performance security as approved by the City Attorney prior to the issuing of a Building Permit or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the Conditional Use Permit and the Ordinances of the City.
2. The security shall be in the amount recommended by the Zoning Administrator based on estimated costs of labor and materials for the proposed improvements or development. Said project may be handled in stages upon the discretion of the Zoning Administrator.
3. The City shall hold the security until completion of the proposed improvements or development and a Certificate of Occupancy indicating compliance with the Conditional Use Permit and Ordinances of the City has been issued by the Building Official.
4. Failure to comply with the conditions of the Conditional Use Permit or the Ordinances of the City shall result in forfeiture of the security in whole or in part depending upon the degree of non-compliance and at the discretion of the City Council.
5. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a Performance Agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

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515-5-3 Interim Use Permits

A. **Purpose and Intent.** The purpose and intent of allowing interim uses is:

1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the City Council, but that with development or redevelopment, may not be acceptable in the future or may be replaced in the future by a permitted or conditional use allowed within the respective Zoning District.
3. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
4. To allow a use that is specific to a user and that is best managed through a time performance standard.

B. **Procedure.**

1. Existing Uses. Uses defined as Interim Uses which presently exist as a legal use or a legal non-conforming use within a respective Zoning District shall be considered approved and shall be treated as allowed uses.
2. New Uses. Uses defined as Interim Uses which do not presently exist within a respective Zoning District shall be processed according to the standards and procedures for a Conditional Use Permit as established by Section [515-5-2] of this Ordinance.

C. **General Standards.** An Interim Use shall comply with the following:

1. Existing Uses. Shall be in conformance with zoning and building standards in effect at the time of initial construction and development and shall continue to be governed by such regulations in the future.
2. New Uses:
   a. Meets the standards of a Conditional Use Permit set forth in Section [515-5-2] of this Ordinance.
   b. Conforms to the applicable performance standards of this Ordinance.
   c. The use is allowed as an Interim Use on the Table of Uses.
   d. The date or event that will terminate the use can be identified with certainty.
   e. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
   f. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

D. **Termination.** An interim use shall terminate when any of the following events first occurs:

1. The date stated in the permit.
2. Upon violation of conditions under which the permit was issued.
3. Upon change in the City's zoning regulations which render the use non-conforming.
4. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective Zoning District.

E. **Cancellation of Interim Use Permits.** Unless otherwise specified by the City Council at the time it is authorized, an Interim Use Permit shall be null and void and expire if the applicant fails to utilize such Interim Use Permit and fulfill each and every condition attached thereto within one (1) year from the date of its authorization unless a petition for an extension of time in which to complete or utilize the permit has been granted by the Zoning Administrator.

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515-5-4 Variances

A. **Purpose and Intent.** The purpose of this Section is to provide for deviations from the literal provisions of this Ordinance in instances where their strict application and enforcement would cause practical difficulty to the individual property under consideration.

B. **General Provisions and Evaluation Criteria.**

1. Board of Appeals and Adjustments. The City Council shall be the Board of Appeals and the Board of Appeals and Adjustments for this City, and as provided by Minnesota Statute Section 462.354, Subd. 2 shall have the powers granted under Minnesota Statute Section 462.357, Subd. 6, as they may be amended from time to time.
2. Pursuant to Minnesota Statute Section 462.357, Subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this Zoning Code. A variance is a modification or variation of the provisions of this Zoning Code as applied to a specific piece of property.
3. Variances shall only be permitted:
   a. When they are in harmony with the general purposes and intent of the ordinance and
   b. When the variances are consistent with the Comprehensive Plan
   c. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.
4. "Practical Difficulties", as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
   a. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
   b. The variance, if granted, will not alter the essential character of the locality.
   c. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
5. Variances shall be granted for earth sheltered construction as defined in Section 216C.06, Subdivision 14, when in harmony with the Ordinance. The Board of Appeals and Adjustments may not permit as a variance any use that is not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located. The Board may permit as a variance the temporary use of a one family dwelling as a two-family dwelling. The Board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

C. **Procedure.**

1. Proof of Ownership or Authorization. The applicant shall supply proof of ownership or equitable ownership interest and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested rezoning.
2. The person applying for a Variance shall fill out and submit to the Zoning Administrator a Variance request form. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator.
3. The Zoning Administrator shall refer the application to the Planning Commission for review.
4. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City Council at least ten (10) days prior to the hearing. Notice of the hearing shall also be mailed to owners of property located within three hundred fifty

(350) feet of the outside of the land to which the Variance will be applicable. The notice shall include a description of the land and the proposed Variance. A copy of the application for the proposed Variance shall be mailed to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board so that the Commissioner and Board will receive at least ten (10) days notice of the hearing (this only applies to applications in the Flood Zone).

5. The City Council, after receipt of the report of the Planning Commission, may grant or deny the Variance pursuant to criteria herein established. A copy of the City Council's decision and Findings-of-Fact shall be sent to the applicant. A copy of all decisions granting Variances within the Flood Zone shall be forwarded by mail to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board within ten (10) days of such action.
6. Whenever an application for a Variance has been considered and denied by the City Council, a similar application for a Variance affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.

D. **Lapse of Variance.**

1. Unless otherwise specified by the City, if within one (1) year after granting a Variance the use as allowed by the Variance shall not have been initiated or utilized, then such a Variance shall become null and void unless a petition for an extension of time in which to complete or utilize the Variance has been granted by the Zoning Administrator provided that:
2. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the initial Variance request.
3. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the Variance that has been granted.
4. A maximum of one (1) extension shall be granted.
5. The extension shall not exceed ninety (90) days from the initial Variance expiration date.
6. There shall be no charge for the filing of a petition for the extension.
7. If an extension exceeding 90 days is requested, the extension must be approved by the City Council after receiving a recommendation from the Planning Commission and City Staff. The extension may be granted provided that:
   a. The conditions described in Subsection [D.1-3] above are satisfied.
   b. The extension shall not exceed one (1) year from the initial Variance approval date.
   c. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

E. **Performance Security.**

1. Upon approval of a Variance, the City shall be provided, where deemed necessary by the City Council, with a performance security as approved by the City Attorney prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the Variance and City ordinance provisions.
2. The security shall be in the amount recommended by the Zoning Administrator based on estimated costs of labor and materials for the proposed improvements or development.
3. The City shall hold the security until completion of the proposed improvements or development and a Certificate of Occupancy indicating compliance with the Variance and City Code provisions has been issued by the Building Official.

4. Failure to comply with the conditions of the Variance or appeal and City Code provisions shall result in forfeiture of the security in whole or in part depending upon the degree of non-compliance and at the discretion of the City Council.
5. Whenever a Performance Guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the Variance. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

515-5-5 Site Plan and/or Building Plan Review

A. **Purpose and Intent.** The purpose of this Section is to establish a formal Site Plan and Building Plan review procedure, and to provide regulations pertaining to the enforcement of site design and construction standards. An application for Site Plan and/or Building Plan review may accompany a primary land use application or may be initiated as a separate application. When processed as part of a primary land use application no separate fee or application for Site Plan or Building Plan review is required.

B. **Zoning Administrator Approval.** Any Site Plan and/or Building Plan application accompanying a primary land use application shall follow the review procedures as described in the applicable application. All Site Plan and/or Building Plan Review of multi-family, commercial, industrial or institutional construction shall be subject to the Information Requirements identified in subsection D. The Site Plan and/or Building Plan Review may be administratively approved if no other primary land use applications are applicable.

C. **Exceptions to Review.** The following may be exempted from some or all of the Site Plan or Building Plan Information Requirements:

1. New on-site construction of detached single-family or attached single-family residential structures, or uses or structures accessory thereto.
2. Changes in the use of leasable space in single or multi-tenant buildings where the change of tenant does not intensify the use of such space nor require additional parking or result in an inability to maintain the required performance standards.
3. Expansion of parking not related to modification, addition or enlargements to the gross floor area of an existing building.
4. Construction of structures or buildings accessory to a permitted or conditionally permitted use within the respective zoning district when such accessory use is also permitted in said Zoning District.

D. **Information Requirements.** The applicant applying for a Site and Building Plan approval shall fill out and submit to the Zoning Administrator an application on the official application form. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials as detailed below. Hard copies may be requested by the Zoning Administrator.:

1. Certificate of Survey prepared by a licensed land surveyor identifying the following:
   a. Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
   b. North point indication.
   c. Existing boundaries with lot dimension and lot area.
   d. Existing buildings, structures and improvements.
   e. Easements of record.
   f. Delineated wetland boundary, to include the OHWL of any lakes or DNR waters, if applicable.
   g. All encroachments.
   h. Legal description.

2. Site Plan using the current Certificate of Survey as a base depicting the following:
   a. Name of project or development.
   b. Name and address of developer and/or owner.
   c. Name and address of engineer, architect or designer.
   d. Date of plan preparation and dates of any subsequent revisions.
   e. All proposed improvements, including:
      i. Required and proposed setbacks.
      ii. Location, setback and dimensions of all proposed buildings and structures.
      iii. Location of all buildings and structures within 100-feet of the exterior boundaries of the subject property.
      iv. Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
      v. Location and width of all proposed street accesses and driveways.
      vi. Location and type of all proposed lighting, including fixture details.
      vii. Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
      viii. Location of freestanding signs.
      ix. Location of HVAC equipment whether ground mounted or roof mounted.
   f. Grading Plan (using the current Certificate of Survey as a base) depicting the following:
      i. Existing contours at two (2) foot intervals.
      ii. Proposed grade elevations at two (2) foot maximum intervals.
      iii. Drainage plan, including the configuration of drainage areas and calculations.
      iv. Spot elevations.
      v. Surface water ponding and treatment areas.
      vi. Erosion control measures.
      vii. Wetland replacement plan (when applicable).
      viii. Drainage calculations for 2-, 10-, & 100-year storm events.
      ix. Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
      x. Date of plan preparation and dates of any subsequent revisions.
   g. Landscaping Plan using the current Certificate of Survey as a base depicting the following:
      i. Planting schedule including symbols, quantities, common and botanical names, sizes of plant materials, root specification (bare root, balled/burlapped, potted, etc.) and special installation instructions.
      ii. Location, type and size of all significant trees to be removed or preserved.
      iii. Location and species of proposed plantings of all species.
      iv. Typical sections with details of fences, walls, and planter boxes.
      v. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.

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vi. Delineation of both sodded and seeded areas with respective areas measured in square feet.

vii. Coverage plan for underground irrigation systems, if any.

viii. Other existing or proposed conditions that could be anticipated to affect landscaping.

ix. Date of plan preparation and dates of any subsequent revisions.

h. Photometric Lighting Plan, to include fixture details/cut sheets/drawings and date of plan preparation and dates of any subsequent revisions.

i. Architectural Plans including:

i. Date of plan preparation and dates of any subsequent revisions.

ii. Architectural elevations of all principal and accessory buildings and structures (type and materials used in all exterior surfaces).

iii. Typical floor plans and typical room plans drawn to scale with a summary of square footage by use or activity.

j. Utility Plan, including:

i. Location, sizing, and type of water and sewer system mains and proposed service connections, hydrants, valves, and manholes; or,

ii. Location and size of proposed primary and secondary on-site treatment systems, when allowed (if ISTS is proposed).

iii. Storm sewer, catch basins, invert elevation, type of castings and type of materials (refer to Engineering Manual for City standards).

iv. Date of plan preparations and dates of any subsequent revisions.

v. Estimates of forecasted water consumption.

vi. Location of electrical services and any transformers and meters.

k. Other plans and information as may be required by the Zoning Administrator which may include (but not be limited to) the following:

i. Location, type and size (area and height) of all signs to be erected upon the subject property.

ii. Vicinity map showing the subject property in relation to nearby highways or major street intersections.

iii. Sound source control plan.

iv. Fire protection plan.

v. Proposed protective covenants or private restrictions.

vi. Where landscaping or man-made materials are used to provide screening from adjacent properties, a cross section shall be provided showing the perspective of the site from neighboring properties at the property line elevation.

vii. Traffic study.

E. **Plan Agreements.** Any Site Plan and/or Building Plan officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the Zoning Administrator.

F. **Enforcement.** The Zoning Administrator shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this Section has been officially documented by The Zoning Administrator.

515-5-6 Zoning Amendments, Map or Text

A. **Amendments to the Zoning Ordinance.**

1. The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which time parties with interest and citizens shall have an opportunity to be heard. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. Any action taken pursuant to this Section shall also be in compliance and accordance with the rules and regulations of the Department of Natural Resources, State of Minnesota, the Federal Emergency Management Agency, and Mississippi Headwaters Board.
2. The Flood Plain designation on the Official Zoning Map shall not be removed from Flood Plain areas unless it can be shown that the designation is in error, or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the Flood Plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.
3. All amendments to the Flood Plain or Flood Fringe Districts of this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

B. **Procedure.**

1. Initiation. The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the Zoning District boundaries of this Ordinance. The procedural requirements of Sections [515-4-2.B and 515-4-2.D] of this Section shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate or having documented interest therein, within the City may initiate a request to amend the Zoning District and Official Zoning Map boundaries or text of this Ordinance, so as to affect the said real estate.
2. Requests for rezoning (text or map) shall be filed with the City on an official application form. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator.
3. Changes in the Official Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.
4. Proof of Ownership or Authorization. The applicant shall supply proof of ownership or equitable ownership interest, a legal description and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested rezoning.
5. Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least ten (10) working days from such date as a notice of the hearing is published in the official newspaper. The Zoning Administrator shall mail the same notice to the owners of the property within three hundred and fifty (350) feet of the outside of the land proposed to be rezoned. The notice shall include the description of the land and the proposed changes in zoning. Failure of a property owner to receive such notification shall not invalidate the proceedings.
6. The mailed notice requirement shall be waived for a city-wide amendment initiated by the Planning Commission or City Council.
7. Upon receiving the request and any report, recommendation and written Findings-of-Fact of the Planning Commission and the Zoning Administrator, the City Council shall have the option to set and hold a public

hearing if deemed necessary and shall make a recorded and written Findings-of-Fact, and provide these written findings to the applicant.

8. The person making the application shall be notified of the action taken. The Zoning Administrator shall maintain records of amendments to the text and Official Zoning Map of the Ordinance.
9. No application of a property owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Planning Commission within the one (1) year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
10. The Zoning Administrator may request the appropriate staff persons to prepare technical reports where applicable and provide general assistance in preparing a recommendation on the action.
11. The City Council and the Planning Commission shall consider possible adverse effects of the proposed amendment. Their judgment shall be based upon (but not limited to) the following factors:
    a. The proposed action's consistency with the specific policies and provisions of the official City Comprehensive Plan.
    b. The proposed use's compatibility with present and future land uses of the area.
    c. The proposed use's effect upon the area in which it is proposed.
    d. Traffic generation of the proposed use in relation to capabilities of streets serving the property.
    e. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and its potential to overburden the City's service capacity.
    f. The City Council, the Planning Commission, and the Zoning Administrator shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
    g. If, upon receiving said reports and recommendations of the Planning Commission, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council will differ from that of the Planning Commission, the City Council may before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.
    h. Approval of a proposed text amendment shall require a majority vote of the City Council.
    i. Approval of a proposed Zoning Map amendment which changes all or part of the existing classification of a zoning district from Residential to Commercial, Industrial, or Planned Unit Development that allows for commercial or industrial uses shall require a two-thirds (2/3) vote of the City Council.
    j. The amendment shall not become effective until such time as the City Council approves an Ordinance reflecting said amendment and one (1) week after said Ordinance is published in the official newspaper.

515-5-7 Planned Unit Development – Overlay Zoning District

A. Purpose and Intent.

1. To encourage a more creative and efficient development of land and its improvements than is possible under the strict application of the Base Zoning District requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan for Brainerd and preserving the health, safety, and welfare of the citizens of Brainerd.
2. To allow for a mixture of residential units in an integrated and well-planned area.

3. To allow for a mixture of commercial, general business or light industrial uses that may include residential uses in a master planned area.
4. To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas.
5. Facilitate the economical provision of streets and public utilities.
6. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.
7. Promotion of a desirable and creative environment that might be prevented through the strict application of the Base Zoning District and/or subdivision regulations of the City.

B. **Planned Unit Development (PUD) Zoning Overlay.**

1. Rezoning to Planned Unit Development (PUD). A Planned Unit Development (PUD) may include land uses from a variety of Base Zoning Districts, and may include design flexibility related to density, setbacks, building heights, lot area, lot width, etc. Any mixed-use project that does not comply with the dimensional or use standards may utilize the Planned Unit Development (PUD) Overlay Zoning District. All PUD Overlay Zoning Districts must identify the areas where flexibility from the Base Zoning District standards are established. A rezoning for a Planned Unit Development (PUD) shall be processed as outlined in Section [515-5-7] of this Ordinance and as outlined herein.

C. **General Requirements.** The City may approve the Planned Unit Development (PUD) only if it is found that the development satisfies all of the following standards:

1. The proposed Planned Unit Development (PUD) is in conformance with the Comprehensive Plan for Brainerd. At a minimum, the City must find that:
   a. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities, which serve or are proposed to serve the area.
   b. The use is reasonably related to the overall needs of the City and is compatible with the surrounding land use.
   c. The Planned Unit Development (PUD) is an effective and unified treatment of the development possibilities on the project site and the development plans provide for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.
   d. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to surrounding uses.
2. The Planned Unit Development (PUD) meets one or more of the following development criteria:
   a. A minimum of two (2) or more principal structures is proposed.
   b. The tract is at least two (2) acres in size.
   c. The use is consistent with the requirements of the Zoning Ordinance.
   d. The Planned Unit Development (PUD) can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
   e. Each phase of the proposed development is of sufficient size, composition, and arrangement so that it's construction, marketing, and operation are feasible as a complete unit, and that provision for and construction of dwelling units and common open space are balanced and coordinated. In addition, the total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
   f. Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the Planned Unit Development (PUD). To evidence this finding, a written statement of financial feasibility, which is accepted by the City, shall be submitted by the applicant.

g. One (1) individual has been designated by the property owner(s) to be in control of the development.

h. The Planned Unit Development (PUD) provides for architectural diversity by way of varied building types and exterior building design.

3. Underground Utilities. In any Planned Unit Development (PUD), all utilities, including, but not limited to, telephone, electricity, gas and cable television shall be installed underground.

4. Utility Connections.

a. *Water Connections*. Where more than one property is served from the same service line, a shut off valve must be located in such a way that each unit's service may be shut off and secured by the City, in addition to the normally supplied shut off at the street.

b. *Sewer Connections*. Where more than one (1) unit is served by a sanitary sewer lateral which exceeds 300-feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.

5. Roadways, Private.

a. *Design*. Private roadways within the project shall have an improved surface to 28 feet or more in width and shall be so designed as to permit the City fire trucks to provide protection to each building.

6. Parking. No portion of the required private road system may be used in calculating required off-street parking space or be used for parking.

7. Landscaping. In any Planned Unit Development (PUD), landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the Planned Unit Development plan.

8. Public services. The proposed project shall be served by the City water and sewer system and fire hydrants shall be installed at such locations as necessary to provide fire protection.

9. Refuse. Provision for trash pick-up shall be provided according to a plan approved by the City Council.

10. Best Management Practices. All Planned Unit Developments shall incorporate Best Management Practices for stormwater management as defined by Chapter 7 of the City Code, subject to review and approval of the Zoning Administrator, Planning Commission and City Council.

11. Sidewalks and Trails. Except as otherwise determined by the City Council, concrete sidewalks not less than five (5) feet in width and/or bituminous trails not less than eight (8) feet in width shall be provided in accordance with the following:

Table 515-5-7.1. Sidewalk/Trail Requirements.

Street Type	Sidewalk/Trail Requirements
Arterial and Major Collector Streets	Sidewalk on one side of the street and trail on opposite side of street or trails on both sides of the street*
Minor Collector and Local Streets	Sidewalk on one side of the street*
Cul-de-sacs	No requirements
**All sidewalks and trails shall be placed back from the street wherever possible to provide a green strip for tree planting and to promote pedestrian safety and reassurance*	

12. Development Agreement. Prior to a rezoning or the issuance of a building permit as part of a Planned Unit Development (PUD), the developer shall execute a development agreement with the City. The agreement shall detail all use restrictions and required improvements conditional to the Planned Unit Development (PUD) rezoning approval. The agreement shall provide for the installation within one (1) year of the off-site and on-site improvements as approved by the City Council, secured by a cash escrow or security in an amount and with conditions satisfactory to the City, to ensure the City that such improvements will be actually constructed and installed according to specifications and plans approved by the City as expressed in such agreement. The amount of the financial guarantee shall be one and one-half (1½) times the estimated cost of the improvements, or as determined by the City of Brainerd.

D. **General Standards for Common Open Space.** No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:

1. The location, shape, size, and character of the common open space must be suitable for the planned development.
2. Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering the size, density, expected population, topography, and the number and type of dwellings to be provided.
3. Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

E. **Conveyance and Maintenance of Common Open Space.**

1. All land shown on the Final Development Plan as common open space must be conveyed under one of the following methods at the discretion of the City.
   a. It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it.
   b. It may be conveyed to a corporation, developer, homeowner association (incorporated or non-incorporated) or trustee provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the party involved subject to covenants approved by the City Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
   c. If the common open space is conveyed to a private party and is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs back to said private party.

F. **Enforcement of Development Schedule/Planned Unit Development**

1. Staging. The construction and provision of all the common open spaces and public and private recreational facilities that are shown on the Final Development Plan must proceed at the same rate as development. At least once every six (6) months following the approval of the Final Development Plan, the Zoning Administrator shall review all of the building permits issued for the planned development and examine the construction that has taken place on the site. If it is found that the rate of development is faster than the rate at which common open spaces and public and private recreational facilities have been constructed and provided, this information shall be forwarded to the City Council.. If the developer or landowners fail to complete the open spaces and recreation areas within 60- days after the completion of the remainder of the project, the City may finish the open space areas and assess the cost back to the developer or landowner.

G. **Residential Density.**

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1. In order to encourage the protection of natural resources, to allow limited development in an area with unusual building characteristics due to subsoil characteristics or to encourage creative land use, a density transfer system may be allowed whereby lot sizes smaller than that normally required in a district will be allowed on the developable land in return for leaving the natural resource areas open from development. The number of dwelling units proposed for the entire site shall not exceed the total number permitted under the density indicated on the Future Land Use Plan contained in the Comprehensive Plan where the land is located. If the Planned Unit Development (PUD) contains more than one land use designation, the number of allowable dwelling units must be separately calculated for each portion of the Planned Unit Development (PUD) that is in a separate land use designation area, and must then be combined to determine the number of dwelling units allowable in the entire Planned Unit Development (PUD).
2. The number of dwelling units which may be constructed within the Planned Unit Development (PUD) shall be determined by dividing the gross acreage of the project area by the maximum allowable density as set forth in the Base Zoning District.

H. **Residential Planned Unit Development Requirements.**

1. It is the intent of this section to establish special requirements for the granting of a Rezoning for residential Planned Unit Development (PUD) projects which are in compliance with the density, permitted and conditional uses allowed in a specific base district including dwellings, offices and institutional uses of one or more buildings in relation to an overall design and integrated physical plan.
   a. *Yards.*
      i. *Setbacks, Periphery*. The front and side yard restrictions at the periphery of the Planned Unit Development (PUD) site at a minimum shall be the same as imposed in the Base Zoning District in which the subject property is located.
   b. *Building Separation.* Buildings within the same lot shall maintain a minimum setback of the average of the building heights of the two adjacent principal buildings.
2. Townhouses, Cooperatives, Condominiums.
   a. *Frontage.* Minimum unit lot frontage for townhouses shall be not less than 15 feet.
   b. *Dwelling Unit.* Dwelling unit and accessory use requirements are in compliance with the Base Zoning District provisions in which the development is planned.
   c. *Building Façade Treatment*. Facades greater than 48-feet in length shall incorporate wall plan projections or recesses having a depth of at least three (3) feet or more.
   d. *Open Space*. Townhouse and multiple family projects shall have usable open space area equal to 40-percent of the total project site.

I. **Commercial and Industrial Planned Unit Development.**

1. The intent of this section is to establish special requirements for the granting of a Rezoning to allow commercial or industrial Planned Unit Development (PUD) projects which are in compliance with the permitted and conditional uses allowed in a specific district in one or more buildings in relation to an overall design and integrated physical plan.
2. Surfacing and Drainage.
   a. *Surfacing.* The entire site other than that taken up by buildings or landscaping shall be paved with concrete, bituminous or paving brick.
   b. *Drainage.* A drainage system subject to the approval of the City Engineer shall be installed.
   c. *Yards.*
      i. *Setbacks, periphery.* The front and side yard setbacks shall be the same as imposed in the Base Zoning District.

J. **Procedure for Processing a Planned Unit Development (PUD).**

1. Stages of Planned Unit Development (PUD) Plan. The processing steps for a Planned Unit Development (PUD) plan are intended to provide for an orderly development and progression of the PUD plan, with the greatest expenditure of developmental funds being made only after the City has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the PUD plan affects the public interest. The various steps represent separate applications for purpose of review, and each step is, outlined in detail in the following sections:

   a. *Pre-Application Meeting.* Preliminary discussions.

   b. *General Concept Plan Application.* Consideration of overall concept and plan. The concept plan review is voluntary but strongly recommended.

   c. *Development Stage Plan Application.* One or more detailed plans as part of the whole final plan.

   d. *Final Plan Application.* The summary of the entire concept and each Development Stage Plan in an integrated complete and final plan.

2. Pre-Application Review. Prior to the submission of any PUD Plan to the Planning Commission, the applicant shall meet with City Staff to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This may include the procedural steps for a Conditional Use Permit and/or a Preliminary Plat as necessary.

3. Neighborhood Meeting. The City may recommend the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to submitting a formal concept application.

4. General Concept Plan.

   a. The General Concept Plan provides an opportunity for the applicant to submit an application to the City showing his basic intent and the general nature of the entire development before incurring substantial cost. This General Concept Plan serves as the basis to solicit public comment early in the project design and development process. The General Concept Plan should include the following:

      i. Overall maximum Planned Unit Development density range.

      ii. Proposed location of major streets and pedestrian ways.

      iii. Proposed location and extent of public and common open space.

      iv. Proposed location of residential and nonresidential land uses with approximate type and intensities of development.

      v. Proposed staging and time schedule of development.

      vi. Other special criteria for development.

5. General Concept Plan submission information.

   a. *General Information.*

      i. *Owner.* The landowner's name, address and telephone number and interest in the subject property.

      ii. *Applicant.* The applicant's name, address and telephone number if different from the landowner. The applicant may designate an agent to be contacted by the City, who may speak for the applicant.

         a. Title. If applicant is different than the owner, evidence that the applicant has sufficient control over the subject property to effectuate the proposed Planned Unit Development (PUD), including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.

iii. *Consultants.* The names and addresses of all professional consultants who have contributed to the development of the Planned Unit Development (PUD) plan being submitted, including attorney, land planner, engineer and surveyor.

iv. *Zoning.* The existing zoning classification and present use of the subject property and all lands within 500-feet of the subject property.

v. *Map.* A single reproducible map or aerial photograph at a scale of not less than one (1) inch equals 100 feet, depicting the existing development of the subject property and all land within 500 feet thereof and showing the precise location of existing streets.

vi. *Narrative Description.* A written statement generally describing the proposed Planned Unit Development (PUD) and the market which it is intended to serve, showing its relationship to the City's Comprehensive Plan and how the proposed Planned Unit Development (PUD) is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

vii. *Existing Site Conditions.* Where deemed necessary by the City, graphic reproductions of the existing site conditions at a scale of not less than one (1) inch equals 100 feet shall be submitted and shall contain the following:

a. Certificate of Survey showing lot dimensions, existing easements and utilities, and legal description.

b. Contours, minimum two (2) foot intervals.

c. Location, type, and extent of tree cover.

d. Steep slope analysis.

e. Location and extent of water bodies, wetlands, streams and flood plains along with corresponding zoning overlays (Shoreland and Mississippi Headwaters) within three hundred (300) feet of the subject property.

f. Existing drainage patterns.

g. Vistas and significant views.

h. Soil conditions as they affect development.

i. All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

viii. *General Concept Drawing.* Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.

ix. *Number of Units.* A statement of the estimated total number of dwelling and/or other units proposed for the Planned Unit Development (PUD) and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

a. Area devoted to residential uses.

b. Area devoted to residential use by building or structure or use type.

c. Area devoted to common open space.

d. Area devoted to public open space.

e. Approximate area devoted to streets.

f. Approximate area, and potential floor area, devoted to commercial uses.

g. Approximate area, and potential floor area, devoted to industrial or office uses.

x. *Staged Development.* When the Planned Unit Development (PUD) is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total Planned Unit Development (PUD) public or common open space and dwelling units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.

xi. *Common Areas.* When the proposed Planned Unit Development (PUD) includes provisions for public or common open space or service facilities a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities is required. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted during the development stage.

xii. *Covenants.* General intent of any restrictive covenants that are to be recorded with respect to property included in the proposed Planned Unit Development (PUD).

xiii. *Market Feasibility.* Where deemed necessary by City Staff a market feasibility study including an analysis of the proposals economic impact on the City.

6. General Concept Plan Process.

a. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator. The applicant, or a representative thereof, shall appear before the Planning Commission to answer questions concerning the proposed development.

b. Planning Commission shall review and make a recommendation to the City Council on the General Concept Plan.

c. City Council reviews all recommendations and indicates its support or concerns about the General Concept Plan as presented or amended.

d. All feedback and recommendations shall be considered as guidance to the applicant. No formal action or binding decision is given for the General Concept Plan.

7. Optional Submission of Development Stage Plan. In cases of single stage Planned Unit Development (PUD) or where the applicant wishes to begin the first stage of a multiple stage Planned Unit Development (PUD) immediately, they may, at their option, submit a Development Stage Plan for the proposed Planned Unit Development (PUD) simultaneously with the submission of the General Concept Plan. In such cases, the applicant shall comply with all the provisions of this Ordinance applicable to submission of the Development Stage Plan. The Planning Commission and City Council shall consider such plans simultaneously and shall grant or deny Development Stage Plan approval in accordance with the provisions of this section.

K. **Effect of General Concept Plan Approval.** Planned Unit Development concept approval only provides direction for the applicant to proceed to Planned Unit Development (PUD), Development Stage Plan submission. The concept plan approval does not convey any development rights or privileges to the applicants.

L. **Development Stage Plan.** Development Stage Plan submissions shall depict and outline the proposed implementation of the Planned Unit Development (PUD) General Concept Plan Stage. Information from the General Concept Plan Stage may be included for background and to provide a basis for the submitted Development Stage Plan.

1. Application. Requests for Planned Unit Development (PUD), Development Stage, as provided within this Ordinance, shall be filed on an official application form. Applications shall be accompanied by a fee as set by City Ordinance, and shall be accompanied by an electronic copy of detailed written and graphic materials.

Hard copies may be requested by the Zoning Administrator. The submission must fully explain the proposed change, development, or use, as follows:

a. *Site Plan/Preliminary Plat.*

i. *Site Plan and Building Plan.* The applicant shall submit a Site Plan and Building Plans (if applicable) in accordance with Section [515-5-5] of this Ordinance. The Zoning Administrator shall have the authority to provide exceptions to the Information Required based on the General Concept Plan review. In addition to the Information Required, the following additional information must be submitted:

a. *Buildings.* The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, or proposed buildings, and existing buildings which will remain, if any.

b. *Traffic Circulation.* Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian and the total site coverage of all circulation elements. Sites adjacent to MnDOT right-of-way shall identify the right-of-way location, dimension from the center line of the highway to the MnDOT right-of-way line, along with existing and proposed ingress and egress.

c. Sites adjacent to MnDOT right-of-way shall be submitted to MnDOT for review and approval.

d. Common Areas. Location, designation and total area of all common open space.

e. Public Open Space. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.

ii. *Preliminary Plat, if applicable.* A Preliminary Plat conforming to Chapter 500 of the City Code, the Subdivision Ordinance, may be required depending on the proposed PUD. The Zoning Administrator shall determine if a plat is required and shall inform the applicant during the pre-application meeting.

iii. *Residential Tabulation.* A tabulation indicating the number of residential dwelling units by number of bedrooms and expected population/housing profile.

iv. *Areas of Use.* A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of use.

b. *Document Changes.* A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with a revised copy of any such document, plan or data.

c. *Lighting Plan.* A plan illustrating site lighting along with a photometric plan as regulated by Section [515-4-8] of this Ordinance.

d. *Additional Data.* Such other and further information as the Zoning Administrator, Planning Commission or City Council shall find necessary for a full consideration of the entire proposed Planning Unit Development (PUD) or any stage thereof.

M. **Development Stage Plan Review Schedule.**

1. The applicant shall file the Development Stage Plan application within six (6) months after General Concept Plan review, together with all supporting data and filing fee, as established by Ordinance.

2. It is recommended that the developer meets with the Zoning Administrator to discuss specific development plans prior to submitting the Development Stage Plan.

3. Staff Review/Technical Assistance Reports. Upon receipt of an application for a Planned Unit Development (PUD), Development Stage Plan, the request shall be referred to appropriate City staff to ensure that

informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted.

4. Other Agency Review. When appropriate, the Planned Unit Development (PUD), Development Stage Plan application shall be forwarded to other special review agencies such as the Department of Natural Resources, soil conservation services, highway departments, or other affected agencies.
5. A public hearing shall be scheduled at a meeting of the Planning Commission.
6. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
7. The Planning Commission shall review said reports and plans and submit recommendations to the Council. Such recommendations shall contain the findings of the Planning Commission with respect to the conformity of the Development Stage Plan to the approved General Concept Plan. Should any changes be found to exist, the Planning Commission shall comment with respect to the merit or lack of merit of any departure of the Development Stage Plan from substantial conformity with the General Concept Plan and with respect to the compliance of the Development Stage Plan with the provisions of this Ordinance and all other applicable Federal, State and local codes and ordinances. If the Planning Commission shall find conformity or any changes merit approval and the Planning Commission shall further find the Development Stage Plan to be in all other respects completed and in compliance with this Ordinance and other applicable Federal, State, and local codes and ordinances, it shall recommend approval.
8. Upon receipt of the Planning Commission report and recommendation, the request shall be placed on the agenda of the next regularly scheduled meeting of the City Council
9. The City Attorney shall prepare a Planned Unit Development (PUD) Development Agreement which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor of the City of Brainerd, the City Administrator and the applicant within thirty (30) days of City Council approval of the Development Stage Plan. Where the Development Stage Plan is to be resubmitted or denied approval, the City Council action shall be by written report setting forth the reasons for its action. In all cases, a copy of the document evidencing City Council action shall be promptly delivered to the applicant.
10. Limitation on Development Stage Plan Approval. Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the Planned Unit Development (PUD) has been filed within six (6) months from the date the City Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Ordinance and/or an approved Development Stage Plan, the approval shall expire. Upon application by the applicant, the City Council may at its discretion extend for not more than six months, the filing deadline for any Final Plan when, for good cause shown, such extension is necessary. In any case where Development Stage Plan approval expires, the City Council shall forthwith adopt a resolution repealing the General Concept Plan approval and the Development Stage Plan approval for that portion of the Planned Unit Development (PUD) that has received Final Plan approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

N. **Final Plan.** The Final Plan is to serve as a complete, thorough and permanent public record of the Planned Unit Development (PUD) and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the Planned Unit Development (PUD) process. It shall serve in conjunction with other City ordinances and the land use regulations applicable to the Planned Unit Development (PUD). The Final Plan is intended only to add detail to, and to put in final form, the information contained in the General Concept Plan and the Development Stage Plan and shall conform to the Development Stage Plan in all respects. The Final Plan shall officially re-zone the property to PUD.

1. Final Plan Submission Information. After review of a General Concept Plan for the Planned Unit Development (PUD) and approval of a Development Stage Plan for a section or sections of the proposed Planned Unit Development (PUD), the applicant will submit the following material for review by the Zoning Administrator prior to issuance of a building permit:

a. *Recording Proof.* Documents establishing the recording of any easement or other documents required by the City prior to the sale of any land or dwelling unit included in the Planned Unit Development (PUD) and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.

b. *Final Plans, Buildings.* Final architectural working drawings of all buildings.

c. *Final Engineering Plans.* Final engineering plans and specifications for streets, drainage, utilities and other public improvements, together with a development contract providing for the installation of such improvements and financial guarantees for the completion of such improvements.

d. *Other Plans.* Any other plans, agreements, or specifications necessary for the Zoning Administrator to review the proposed construction. All work shall be in conformance with the Building Code of the City.

2. Final Plan Review Schedule.

a. Upon approval of the Development Stage Plan and within the time established by this Ordinance, the applicant shall file with the Zoning Administrator a Final Plan consisting of the information and submissions required for the entire Planned Unit Development (PUD) or for one (1) or more stages. This application will be considered at the next possible regular Planning Commission meeting.

b. The findings and recommendations of the Planning Commission shall be forwarded to the City Council for consideration. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

c. Upon of receipt of a complete Planned Unit Development (PUD) Final Plan application, , the City Council shall grant approval or denial of the request to rezone the project to PUD.

d. The applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County. The applicant shall provide the City with a signed copy verifying County recording within six (6) months from the date of approval.

e. *Building and Other Permits.* Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicant ordinances of the City, the Zoning Administrator may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the Zoning Administrator is first satisfied that the requirements of all codes and ordinances in which are applicable to the permit sought, have been satisfied.

f. *Limitation on Final Plan Approval.* Within one (1) year after the approval of a Final Plan for Planned Unit Development (PUD), or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an automatically rendered void, the Planned Unit Development (PUD) permit and all approvals of the Planned Unit Development (PUD) plan and the area encompassed within the Planned Unit Development (PUD) shall thereafter be subject to those provisions of the Zoning Ordinance, and other ordinances, applicable in the district in which it is located. In such case, the City Council shall forthwith adopt an ordinance repealing the Planned Unit Development (PUD) permit and all Planned Unit Development (PUD) approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable. The time limit established by this section may, at the discretion of the City Council, be extended for not more than one (1) year by ordnance or resolution duly adopted.

O. **Coordination with Subdivision Resolution Regulations.**

1. It is the intent of this Ordinance that any required subdivision review under Chapter 500, the Subdivision Ordinance, be carried out concurrently with the review of a Planned Unit Development (PUD) under this Ordinance.

2. The plans required under this section must be submitted in a form which will satisfy the requirements of the Subdivision Ordinance for the Preliminary and Final Plats required under those regulations.

P. **Planned Unit Development (PUD) Review and Amendments.**

1. Annual Review. The Zoning Administrator and the Planning Commission shall review all uncompleted Planned Unit Development (PUD) within the City by March 1 of each year and shall make a report to the Planning Commission and City Council on the status of the development in each of the Planned Unit Development (PUD) Districts. If the Planning Commission finds that development has not occurred within one (1) year after the original approval of the conditional use for the Planned Unit Development (PUD), the Planning Commission may recommend that the City Council revoke the Conditional Use Permit or the Planned Unit Development (PUD) permit.

2. Amendments to the Planned Unit Development (PUD).

   a. Any deviation or modification from the terms or conditions of an approved Planned Unit Development (PUD), or any alteration in a project for which a Planned Unit Development (PUD) permit has been approved, shall require an amendment of the original Planned Unit Development (PUD). An application for an amendment specifying the proposed alteration shall be submitted to the City, together with a fee as provided for by Ordinance.

   b. *Action by the Planning Commission and City Council.* The same application and review procedure shall be followed with respect to the applicant's initial request as outlined in this Section [515-5-7].

515-5-8 Building Permits and Certificates of Occupancy

A. **Building Permits.** For the purposes of enforcing this Ordinance, a Building Permit shall be required for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure or cause same to be done in the City of Brainerd.

B. **Application for a Permit within a Flood Zone.** Application for a permit within a Flood Zone shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: two (2) sets of plans drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

C. **Certificate of Zoning Compliance Required.**

1. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

2. Building permits, Conditional Use Permits, or Certificates of Zoning Compliance shall be issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

3. Any use, arrangement, or construction of a Variance with the authorized, approved plans shall be deemed a violation of this Ordinance, and punishable as provided by Section [515-5-11] of this Ordinance.

4. The Building Official, in consultation with the Zoning Administrator, may refuse to issue a Certificate of Occupancy for any building or structure so long as any violations of this Ordinance exist on the premises or there remains any unsatisfied conditions related to any permit or Variance applicable to the premises.

515-5-9 Administrative Permits

A. **Purpose.** The purpose of this Section is to establish regulations and procedures for the processing and consideration of activities allowed by Administrative Permit, with the goal of protecting the health, safety, and welfare of the citizens of the City.

B. **Procedure.**

1. Application for an Administrative Permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.
2. New applications and applications for amending Administrative Permits shall be accompanied by a non-refundable fee as set forth by resolution of the City Council.
3. The Zoning Administrator shall review the application and related materials and shall determine that the proposal complies with all applicable evaluation criteria, codes, ordinances, and applicable performance standards.
4. The Zoning Administrator shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
   a. Compliance with and effect upon the policies and provisions of the official Comprehensive Plan.
   b. The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
   c. The use, event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
   d. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
   e. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
   f. The use, event or activity shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.
   g. The use, event or activity and site conform to all applicable performance standards of this Ordinance.
   h. The Zoning Administrator shall make a determination on approval or denial of the Administrative Permit within thirty (30) days from the date of submission of a complete application.
5. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the permit.
6. Determination of non-compliance with applicable codes, ordinances, and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.
7. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as defined by Section [515-5-11] of this Ordinance.

C. **Information Requirement.** The information required for all Administrative Permit applications shall include:

1. A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.
2. A copy of the approved Site Plan or Sketch Plan, if available, for the property or an "as built" survey which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.

a. If requested by the Zoning Administrator, a Site Plan or Building Plan per Section [515-5-5] of this Ordinance may be required. The Zoning Administrator shall have the authority to exempt certain some requirements based on the proposed use or improvements.

b. If requested by the Zoning Administrator, a Sketch Plan of the subject property may be requested. The Sketch Plan must be drawn to-scale, must be scalable and show, at a minimum, lot lines, required setback, location of improvements and any proposed improvements and structures.

3. An accurate floor plan, which in the judgment of the Zoning Administrator, is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exists.

4. A copy of the current sales tax certificate issued by the State of Minnesota, if applicable.

5. Certification that all property taxes, special assessments, interest and utility fees due upon the parcel to which the Administrative Permit relates have been paid.

6. Proof that the applicant has insurance, in an amount acceptable to the City, to protect from risks inherent in the proposed activity.

D. **Performance Standards.** All uses, events or activities allowed by Administrative Permit shall conform to the applicable standards outlined in the Zoning District in which such use, event or activity is proposed.

E. **Administration and Enforcement.**

1. The Zoning Administrator shall keep a record of applications and Administrative Permits.

2. A copy of all Administrative Permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.

3. Enforcement of the provisions of this paragraph shall be in accordance with Section [515-5-11] of this Ordinance. Violation of an issued permit or of the provisions of this Section also shall be grounds for denial of future permit applications.

515-5-10 Non-Conforming Lots, Buildings, Structures and Uses

A. **Purpose and Intent.** It is the purpose of this Section to provide for the regulation of legal non-conforming lots, buildings, structures and uses and to specify those requirements, circumstances and conditions under which legal non-conforming lots, buildings, structures, and uses will be operated and maintained. This Ordinance establishes separate Base Zoning Districts and Overlay Districts, each of which is an appropriate area for the location of uses which are permitted in that Zoning District. It is necessary and consistent with the establishment of these Zoning Districts that non-conforming lots, buildings, structures, and uses are not allowed to continue without restriction.

B. **General Provisions.**

1. Conditional Uses/Interim Uses/Uses by Administrative Permit. Any established use or building legally existing prior to the effective date of this Ordinance, and which is herein classified as a conditional use, interim use, or use by administrative permit may be continued in like fashion and activity and shall automatically be considered as having received the applicable approval. Any change to such a use, including, but not limited to, building and/or site alteration, shall require a new permit be processed as provided in this Ordinance.

2. Moving Nonconforming Buildings. No nonconforming building or structure shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed prior to the effective date of this Ordinance unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance.

3. Subdivision. No parcel of land or portion thereof shall be subdivided if such action results in parcels, buildings and structures becoming nonconforming.

4. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of adoption of an additional control under this Ordinance, may be continued in the same size and manner, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this Section, unless:

   a. The nonconforming use or occupancy is discontinued for a period of more than one (1) year. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

   b. Any nonconforming use is destroyed by fire or other peril to the extent greater than fifty (50) percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City of Brainerd may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

C. **Non-Conforming Uses.**

1. Changes to Non-Conforming Uses:

   a. When a lawful, nonconforming use of any structure, building or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

   b. A lawful, nonconforming use of a structure, building or parcel of land may be changed to lessen the nonconformity of the use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

D. **Non-Conforming Buildings and Structures.**

1. Proposed Building or Structure. Any proposed building or structure which will, under this title, become nonconforming but for which a Building Permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans, provided construction is started within 60 days of the issuance of a building permit, is not abandoned for a period of more than 120 days, and continues to completion within two (2) years. Such building or structure shall thereafter be a legally nonconforming building or structure.

E. **Non-Conforming Lots.**

1. Vacant or Redeveloped Lots. Except in Floodplain and Flood Fringe districts, legal, nonconforming lots of record may be developed, provided that:

   a. *Legally Established Lot.* The lot in question was legally established in accordance with City Code requirements existing at the time of its creation and is a separate, distinct tax parcel.

   b. *Unsewered Lots or Parcels.* A lot or parcel of 20,000 square feet or larger, not having access to municipal sewer, shall be considered buildable provided public health concerns (potable water and sanitary sewer) can be adequately addressed.

   c. *Access.* The lot in question has frontage on and will directly access an improved public street.

   d. *Setback and Yard Requirements.* The setback and yard requirements of the base zoning district can be achieved while simultaneously resulting in development which complies with the character and general design of the immediate area and the objectives of the City's Comprehensive Plan and the provisions of this Ordinance.

2. Developed Lots. An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.

F. **Reestablishment of Nonconforming Buildings and Structures**

1. Any building or structure which at one time had a nonresidential use may be reestablished with a nonconforming use provided it is found that:

2. The building or structure and land in combination, cannot reasonably be used for a conforming purpose;

3. The proposed use is compatible with adjacent properties and the area in which it is located;

4. The proposed use will not be detrimental to the existing character and/or endanger the public health, safety or general welfare of the area;
5. The proposed use is consistent with the comprehensive plan;
6. Off-street parking is provided in accord with Section [515-4-12] Off-street Parking.
7. A public hearing is held in accord with the process described in Section [515-5-2] Conditional Use Permits.
8. A nonconforming residential use that had a rental license expire (more than 365 days from date of license expiration) cannot be reestablished as a nonconforming use.

515-5-11 Enforcement and Appeals.

A. **Enforcing Officer.** The City Council shall appoint a Zoning Administrator. The Zoning Administrator shall enforce this Ordinance and shall perform the following duties:

1. Maintain permanent and current records of this Ordinance, including but not limited to maps, amendments, variances and conditional uses.
2. Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
3. Institute in the name of the City, any appropriate actions or proceedings against a violator as provided for.
4. Serve as an ex-officio non-voting member of the Planning Commission.
5. The Zoning Administrator shall work with the Building Department to enforce the provisions of this Ordinance.
6. If the provisions of this Ordinance are being violated, the City shall notify in writing the property owner or property owner and tenant if rental property for such violations pursuant to Chapter [4]. The City shall order discontinuance of illegal use of the land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Section to ensure compliance with or to prevent violation of provisions of this Ordinance.

B. **Violations, Penalties and Enforcement.**

1. Violations. The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be enforced by and one (1), all, or a combination of the following penalties and remedies:
   a. Violations may be enforced as administrative offenses pursuant to Chapter 320 of the Brainerd City Code.
   b. Violations shall be punishable as misdemeanor prescribed under State law.
   c. The Zoning Ordinance may also be enforced by injunction, abatement, mandamus or any other appropriate remedy ordered by a court of competent jurisdiction.
2. Penalties. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitute a separate offense.
3. Application to Community Personnel. The failure of any officer or employee of the community to perform any official duty imposed by this Ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
4. Equitable Release. In the event of a violation or the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the community in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.
5. Penalties for Violation in Flood Zone.

a. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall be punishable as described in Part A of this Section.

b. Nothing herein contained shall prevent the City of Brainerd from taking such other lawful action as is necessary to prevent or remedy any violation.

c. In responding to a suspected Ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

d. When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources Office, Federal Emergency Management Agency Regional Office and Mississippi Headwaters Board Office, along with the community's plan of action to correct the violation to the degree possible.

e. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use are under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or the community grants approval. If the construction or development is already completed, then the Zoning Administrator may either issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or to notify the responsible party to apply for an after-the-fact permit/development approval within specified period of time not to exceed 30 days.

f. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition that existed prior to the violation of this Ordinance.

C. **Board of Zoning Appeals.** The City Council shall serve as the Board of Zoning Appeals.

D. **Appeal Procedures.**

1. The Board of Zoning Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing the Ordinance. Such an appeal can be taken by any person, firm or corporation aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state.

2. The Board of Zoning Appeals shall also have the power to grant variances to provisions of the Zoning Ordinance under certain conditions. The conditions for the issuance of a Variance are as indicated in Section [515-5-4] of this Ordinance. No Use Variances shall be issued by the Board of Zoning Appeals.

3. Hearings of the Board of Zoning Appeals shall be held within such time and upon such notice to interested parties as is provided in its adopted rules for the transaction of its business. The Board shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.

4. The Board of Zoning Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all

the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated. The decision of such board shall not be final and any person having an interest affected by such decision shall have the right to appeal to District Court in the county in which the land is located on questions of law and fact.

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515-6 RULES AND DEFINITIONS.

515-6-1. Rules.

A. **Rules.** The language contained in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural and the plural includes the singular.
2. The present tense includes the past and future tenses, and the future to the present.
3. The words "shall" and "must" are mandatory, and the word "may" is permissive.
4. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition.
5. All measured distances expressed in feet shall be to the nearest tenth of a foot.
6. In the event of conflicting provisions, the more restrictive provisions shall apply.
7. For terminology not defined in this Section, the most current Merriam Webster's dictionary shall be used to define such terms.

515-6-2. Definitions. The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

A. **Definitions of Nouns, Person and Regulatory Bodies.** The following definitions are provided to describe persons, regulatory bodies and agencies referenced throughout this Ordinance.

1. **Applicant.** The person(s) whose name(s) are on an application as owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this Ordinance are being considered or reviewed.
2. **Board of Zoning and Appeals.** Brainerd City Council.
3. **Builder.** Any person or entity to which a building permit is issued for the construction of a single-family residence.
4. **Business.** Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
5. **City.** City of Brainerd.
6. **County**. Crow Wing County, Minnesota.
7. **Developer.** Any person or entity other than a builder, as defined herein, who undertakes to improve a parcel of land, by platting, grading, installing utilities or construction or improving any building thereon.
8. **MPCA**. Minnesota Pollution Control Agency.
9. **MnDOT**. Minnesota Department of Transportation.
10. **Owner.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one (1) year, a dominant easement interest, or an option to purchase any of same, but not including owners or interests held for security purposes only.
11. **Public Notices.** Official notice posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.
12. **Planning Commission**. The Planning Commission of Brainerd.

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13. **Zoning Administrator**. The duly appointed person charged with enforcement of this Ordinance.

B. **Definitions of Structure, Measurement and Dimension.**

1. **Abut (includes abuts and abutting)**. To be next to, or to share a common boundary. "Abutting" includes across a street. "Abutting" does not include properties that touch only corner to corner
2. **Accessory Building or Structure.** A subordinate building or structure which is located on the same lot as the Principal Structure which is reasonably necessary and incidental to the conduct of the primary use of such Principal Structure.
3. **Accessory Dwelling Unit (ADU).** A smaller, independent residential dwelling unit located on the same lot as a stand along principal dwelling unit. ADUs may be attached or detached from the principal dwelling unit.
4. **Addition.** A physical enlargement of an existing structure.
5. **Adjacent.** Having a common border (a shared or adjoining border or property line).
6. **Agricultural Building or Structure**. Any building or structure, existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.
7. **Alley.** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of a property with principal frontage on a Street.
8. **Awning.** A roof like cover, often of fabric, plastic, metal or glass designed and intended for protection from weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk or the like. Any part of an awning which projects over a door shall be counted as an awning.
9. **Basement.** Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on at least three sides, regardless of the depth of excavation below ground level.
10. **Bluff.** A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:
    a. Part or all of the feature is located in a shoreland area.
    b. The slope rises at least twenty-five (25) feet above the ordinary high-water level of the water body.
    c. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high-water level averages thirty percent (30%) or greater.
    d. The slope must drain toward the water body.
11. **Buildable Land, Contiguous.** Land area occurring within the property lines of a parcel or lot excluding wetlands, water bodies, 100 year flood fringe, transmission utility easements, or rights-of-way.
12. **Building.** Any structure having a roof which may provide shelter or enclosure of persons, animals, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.
13. **Building Frontage, Common Entry.** A building with a primary entrance on the public right-of-way that provides access to one, or multiple, non-residential tenants.
14. **Building Frontage, Shopfront.** A building with one primary entrance per tenant that faces the public right-of-way. Examples include small retail buildings with a merchandise window, transom windows, etc.
15. **Building Frontage, Stoop.** A building with individual entrances for each tenant of the main floor, which may include residential and non-residential uses. See definition of stoop.
16. **Building Height**. The vertical distance to be measured from the average grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on pitched or hip roof.

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17. **Building Line.** A line measured across the width of the lot at the point where the Principal Structure is placed in accordance with required front yard setback.
18. **Caliper Inch.** The diameter of replacement trees measured at a height of one (1) foot above the ground level.
19. **Canopy.** A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.
20. **Carport.** An automobile shelter having two (2) or more sides open.
21. **Cellar**. A covered excavation, attached or unattached to the Principal Structure, often used for storage or protection from dangerous windstorms.
22. **Cluster Development**. The development pattern and technique whereby buildings or lots are arranged in closely related groups to make the most efficient use of the natural amenities of the land.
23. **Common Open Space**. Any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.
24. **Construction Area.** Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction or any other construction activity.
25. **Condominium.** A multiple family dwelling or development containing individually owned dwelling units that includes jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes sections 515A.1-101 et seq.
    a. *Condominium Association.* The community association that administers and maintains the common property and common elements of a condominium.
26. **Cooperative**. A multi-unit development operated for and owned by its occupants. Individual occupants own shares of the total investment property.
27. **Critical Root Zone (CRZ).** An imaginary circle surrounding the tree trunk with a radius distance of one (1) foot per one (1) inch of tree diameter, such as a twenty (20) inch diameter tree has a CRZ with a radius of twenty (20) feet.
28. **Deck.** Horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a Principal Structure or use of the site and at any point extending above grade.
29. **Diameter, Tree.** The length of a straight line measured through the trunk of a tree at fifty-four (54) inches above the ground.
30. **Diameter Inch, Tree.** The diameter, in inches, of a tree measured at diameter breast heights (four one-half [4½] feet from the uphill side of the existing ground level).
31. **Drainage.** The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.
32. **Drainageway.** Any natural or artificial watercourse, trench, ditch, swale or similar depression into which surface water flows.
33. **Drip Line.** The farthest distance away from the trunk that rain or dew will fall directly to the ground from the leaves or branches of the tree.
34. **Driveway.** A private roadway providing access for vehicles to a parking space, garage, dwelling or other buildings and structures.

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35. **Dwelling, Duplex.** A structure containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

36. **Dwelling, Manufactured Single-Family**. A manufactured single-family dwelling is a structure transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contain therein. No manufactured dwelling shall be moved into the City of Brainerd that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes Chapter 327.31 Subdivision 3.

37. **Dwelling, Multi-family (5 Units+ also referred to as Apartments or Townhomes).** A building designed with five (5) or more dwelling units exclusively for occupancy by five (5) or more families living independently of each other. Such buildings may have common hallways and main entrances or have private entrances. Multi-family buildings may include, but not be limited to, efficiency units, one-bedroom, two-bedroom, and three-bedroom units.

38. **Dwelling, Short Term Rental Unit –** A dwelling unit, as defined by this Ordinance, offered for trade or sale, whether for money or exchange of goods or services, for not more than 28 consecutive nights.

39. **Dwelling, Single-Family Attached (2 to 4 Units).** A building designed for two (2) to four (4) dwelling units. Such units may have common or shared entry. Such buildings are commonly referred to as Duplex, Triplex, or Fourplex. See also Duplex.

40. **Dwelling, Single-Family Detached.** A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

41. **Dwelling Unit.** A building or portion thereof, designated exclusively for residential occupancy. One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. Does not include hotel, motel or boarding room.

42. **Easement**. A grant by an owner of land for specific use by a person or persons other than the owner. An easement may be granted for the purpose of constructing and maintaining walkways, roadways, utilities, and other uses.

43. **Erect.** Activity of constructing, building, raising, assembling, placing, affixing, attaching creating, painting, drawing or any other way of bringing into being or establishing.

44. **Extraction Area**. Any non-agricultural artificial excavation of earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth for the purpose of removing minerals or borrow of fill. This definition shall not include excavation made for the building of basements.

45. **Façade, Building.** The face of a building.

46. **Fence**. Any partition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

47. **Filling.** The act of depositing any rock, soil, gravel, sand or other material on a site.

48. **Floor Area**. The sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of party walls separating two (2) buildings. In particular, "floor area" shall include:

    a. Basement space if at least one-half (½) of the basement story is above established curb level, or where the curb level has not been established, above the average level of the finished grade.

b. Elevator shafts and stairwells at each floor.

c. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half (7½) feet, except equipment open or enclosed, located on the roof, i.e., bulkheads, water tanks and cooling towers.

d. Attic floor space where the structural head-room exceeds seven and one-half (7½) feet.

e. Interior balconies and mezzanines.

f. Enclosed porches, but not terraces, breezeways, and screened porches.

g. Accessory uses, other than floor space devoted exclusively to accessory off-street parking or loading.

49. Floor Area Ratio. The numerical value obtained through dividing the gross floor area of a building by the net area of the lot or parcel of land on which such building is located.

50. Floor Plan, General. A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

51. Garage, Private. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families residing upon the premises.

52. Gazebo. A freestanding accessory structure or pavilion from which views of surrounding scenery are commonly offered. Such structures are characterized by partly open construction, design symmetry, and the use of ornamental architectural features.

53. Greenhouses. A building or structure often on a metal or wooden frame constructed chiefly of glass, glasslike or translucent material, which is devoted to the protection or growing of flowers, shrubbery, vegetables, trees or other horticultural and floricultural products.

54. Green Space. Open, undeveloped land with natural vegetation.

55. Frontage. That boundary of a lot or parcel that is adjacent to a private street or dedicated public right-of-way or Street.

56. Grade (Adjacent Ground Elevation). Is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

57. Grading Plan. Existing topography and proposed finished grades with a contour interval of no greater than two (2) feet clearly indicating the relationship of proposed changes to existing topography and remaining features.

58. Lot. A parcel of land designated by metes and bounds, auditors plat, subdivision plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. Individual lots, under the same Owner, with the same or similar uses which function as one use shall, along with any associated accessory uses, be considered one (1) lot for zoning purposes.

59. Lot Area. The area of a lot in a horizontal plane bounded by the lot lines.

60. Lot, Corner. A lot situated at the intersection of, and adjacent to two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees**.**

61. Lot Depth. The mean horizontal distance between the front lot line and the rear lot line of a lot.

62. Lot, Interior. A lot, other than corner lot, including through lots.

63. Lot Line, Front. That boundary of a lot which is adjacent to an existing or dedicated public street, or existing private street. In the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the City.

64. **Lot Line, Rear**. That boundary of a lot which is opposite of the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
65. **Lot of Record**. Any lot which is one (1) unit of a recorded plat designated by auditors plat, subdivision plat, or other accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance. Also referred to as a "parcel."
66. **Lot Line, Side**. Any boundary of a lot which is not at the lot line or a rear lot line.
67. **Lot Through**. A lot which has a pair of opposite lot lines that are adjacent to two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this Ordinance.
68. **Lot Width**. The maximum horizontal distance between the side lot lines of a lot measured at the front setback line.
69. **Ordinary High-Water Level (OHWL).** The boundary of public waters and wetlands as determined by the Minnesota Dept. of Natural Resources: an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial**.** (See Shoreland Ordinance and Floodplain Ordinance)
70. **Parcel.** A contiguous tract or area of land established by plat, subdivision, or as otherwise permitted by law (metes and bounds), that has one legal description and parcel identification number recorded with the Crow Wing County Recorder's Office. Also referred to as a "lot" or "lot of record." Individual parcels, under the same owner, with the same or similar uses which function as one (1) use shall, along with any associated accessory uses, be considered one (1) parcel for zoning purposes.
71. **Property Line**. The legal boundaries of a parcel of property.
72. **Regulatory Flood Protection Elevation**. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
73. **Road**. See "Street".
74. **Setback**. The minimum horizontal distance between a structure or sanitary facility and a road, highway, waterbody, or property line.
75. **Site**. Lot or combination of contiguous lots or parcels..
76. **Site Plan.** The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including: topography, vegetation, drainage, floodplains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening device; any other information that reasonably may be required in order that an informed decision can be made by the approving authority.
77. **Sketch Plan.** A to-scale plan of a parcel, lot, or site that shows:
    a. Existing and proposed improvements including, but not limited to, buildings, parking lots, drive aisles, and accessory buildings
    b. Yard setbacks
    c. Wetlands or waterbodies
    d. Any other applicable physical characteristics required based on this Ordinance.
78. **Slope.** The degree of deviation of a surface from the horizontal, usually, expressed in percent or degrees.

79. **Slope, Steep.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports. Where specific information is not available, steep slopes are lands having average slopes over eighteen (18) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
80. **Stoop.** A small porch, platform, staircase at a house door with or without steps and with or without a roof.
81. **Story**. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused above-floor space shall be considered as a story.
82. **Story, First.** The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty (50) percent of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point.
83. **Street, Collector**. A street which serves or is designed to serve as a traffic- way for a neighborhood or as a feeder to a major street.
84. **Street, Cul-de-Sac.** A local street, one end of which is closed and consists of a circular turn around or terminus.
85. **Street, Local**. A street intended to serve primarily as an access to adjacent properties.
86. **Street, Minor Arterial**. Streets which serve as transitions between principal arterials and local collector streets.
87. **Street, Principal Arterial**. A street which is the major interconnection within a community transportation system providing major access routes within the community and its environs.
88. **Street, Public**. A public right-of-way which affords primary means of access to adjacent property. Such definition includes avenues, highways, roads, or other rights-of-way-as otherwise designated.
89. **Street, Private**. A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public and is owned by one or more private parties.
90. **Structure.** Anything which is built, constructed or erected, an edifice or building of any kind, or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.
91. **Structure Alteration.** Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.
92. **Structure, Principal (same meaning as Principal Building)**. A building or group of buildings which are permanently affixed to the land and which are built, used, designed or intended for the shelter or enclosure of the principal use on the property.
93. **Substantial Improvement.** Any extension, repair, reconstruction, or other improvement of a property, the cost of which equals or exceeds fifty (50) percent of the fair market value of a property either before the improvement is started or if the property has been damaged and is being restored, before the damage occurred.
94. **Subdivision**. The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term lease hold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial or other use or any combination thereof, except those separations:

a. Where all the resulting parcels, tracts, lots, or interests will be ten (10) acres or larger in size and five hundred (500) feet in width for residential uses and ten (10) acres or larger in size for commercial and industrial uses.

b. Creating cemetery lots.

c. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

95. Yard. A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted by this Ordinance. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

96. Yard, Front. A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning in which such lot is located.

97. Yard, Rear. The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

98. Yard, Side. The yard extending along the side lot line between the front yard and rear yards to a depth or width required by setback requirements for the zoning district in which such lot is located.

99. Zero Lot Line. The reduction of side yard setback requirements to zero, permitting the placement of a structure near or adjacent to the side yard lot line. With zero lot line no portion of the structure or accessory appurtenance shall project over the lot line.

C. **Definitions of Use, Standards and Terms.**

1. Accessory Use. A subordinate use which is clearly incidental and secondary to the Principal Use or Structure located on the same lot.

2. Agricultural Use. The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:

a. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.

b. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.

c. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

d. Tree farms.

e. Agricultural land uses do not include slaughter houses or the processing of crops, produce, animals for public purchase or consumption as to constitute a commercial or industrial land use.

3. Animals, Domestic. For purposes of this Ordinance, domestic animals shall be defined as house pets such as dogs, cats, traditional and typical animal pets, and birds (not including pigeons, chickens, geese, turkeys or other domestic fowl) which can be contained within a Principal Structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes rabbits normally sheltered outside the home.

3. **Animals, Farm.** Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals traditionally and commonly accepted as farm animals in the State of Minnesota.

4. **Antenna Related.**

a. *Personal Wireless Service.* A device consisting of a metal, carbon, fiber, or other electromagnetically conducive rods or elements on a single supporting pole or other structure and used for the transmission and reception of wireless communications including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services.

b. *Public or Commercial Radio and Television, Broadcast Transmitting.* A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming and including the support structure thereof.

c. *Public Utility Microwave.* A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications and including the support structure thereof.

d. *Radio and Television Receiving.* A wire, set of wires, metal or carbon fiber element(s) other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the support structure thereof.

e. *Satellite Dish.* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television receive only) and satellite microwave antennas and support structure thereof.

f. *Short-Wave Radio Transmitting and Receiving (Ham Radio).* A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave and citizen band radio communications, and including the supporting structure thereof.

g. *Secondary Use.* A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.

h. *Structure, Public.* An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which is owned or rented, and operated by a federal, state, or local government agency.

i. *Support Structure.* Any building or other structure other than a tower which can be used for location of antennas.

j. *Tower.* Any ground mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna or similar apparatus above grade.

k. *Tower, Temporary Mobile.* Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, which is commonly referred to as Cellular on Wheels (COW).

5. **Assembly, Product**. The taking of two or more parts or components and putting them together to make a final product or a product which will be combined with other components to create a final product.

6. **Auto or Motor Vehicle Wrecking Yard**. A lot or yard where one (1) or more unlicensed motor vehicle(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also "Junk Yard".)

7. **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

8. **Boarding House (Rooming or Lodging House)**. A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed twenty (20) persons.

9. **Boarding School** – A school at which the pupils receive board and lodging during the school term.

10. **Brew Pub –** A restaurant and brewery that brews less than 3,500 barrels of beer per year for sales on the premises provided the beer is sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, except that an establishment licensed under Minnesota Statutes 304A.301, Subdivision 6D may sell "growlers" off-sale with appropriate City licenses.
11. **Club or Lodge**. A not-for-profit association of persons, with members paying annual dues, and with use of the premises being restricted to members and their guests.
12. **Commercial Use.** The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services, including, but not limited to:
    a. *Automobile Repair-Major.* General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.
    b. *Automobile Repair-Minor.* An establishment providing goods or services related to automobiles such as car washes, repair businesses limited to minor engine repair, fluid changing, tire service and muffler repair and other uses of similar character, but not including uses defined as a major automobile business or automobile sales.
    c. *Automobile Sales.* The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers or recreational vehicles including any major or minor automobile repair or service uses conducted as an accessory use.
    d. *Automobile Service Station.* Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories.
    e. *Hospitality Business.* An establishment offering transient lodging accommodations on a daily rate to the general public, leasable events, meeting or conference facilities and exhibition halls or other uses of similar character including hotels, motels, convention facilities, and hospices.
    f. *Liquor Sales, Off-Sale.* Licensed sale of intoxicating beverages for consumption off site.
    g. *Liquor Sales, On-Sale.* Licensed sale of intoxicating beverages for consumption at the premises where the beverage is purchased such as a bar or tavern.
    h. *Motor Fuel Station.* A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.
    i. *Office Business-Clinic.* An establishment located within a building or portion of a building providing out-patient health services to patrons, including general medical clinics, mental health providers, chiropractor, dentists, orthodontia, oral surgeons, opticians, and other uses of similar character.
    j. *Office Business-General.* An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional administrative or clerical service operations including attorneys, financial advisors, insurance, travel, real estate, and other uses of similar character.
    k. *Personal Service.* Personal services shall include the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, body art and therapeutic massage.
    l. *Recreational Business.* Arcade, health club, gymnasium, bowling alley, billiard (pool) hall, dance hall, dance studio, skating rinks, theaters, indoor firearms ranges and sports arenas. Activities are contained within a building.
    m. *Restaurant.* An establishment that serves food in individual servings for consumption on or off premises, including sit-down restaurants, take out, pick up, or delivery food sales, but not including drive-through facilities. Outdoor dining areas and drive-through facilities may or may not be allowed in each zoning district: they are not automatically allowed when a restaurant is an allowable use.

n. *Retail Business.* An establishment engaged in the display and sale of products produced off-site directly to consumers within a building or portion of a building excluding any exterior display and sales. Such uses may include grocery, clothing and book stores, etc. (Exception – sexually oriented uses).

o. *Service Business, Off-Site.* A company that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer's location, including delivery services, catering services, plumbing and sewer services, and other uses of similar character.

p. *Service Business, On-Site.* An establishment that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks (not including drive-through facilities), copy centers, laundromats, dry cleaners, funeral homes and mortuaries, appliance repair, tailor shops, and travel bureaus.

13. **Comprehensive Plan**. A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the City of Brainerd and its environs. Said plan includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

14. **Conditional Use.** A land use or development that may not be appropriate generally within a certain district but may be allowed in that district with appropriate restrictions, conditions or limitations as imposed by the City Council.

15. **Conditional Use Permit.** A permit issued by the City Council in accordance with the procedures specified within this Ordinance as a device to enable the City Council to assign conditions to a proposed use or development after consideration of the adjacent land uses and the special characteristics which the proposed use presents.

16. **Day Care Facility**. A facility licensed by the State Department of Human Services, public or private, which for gain or otherwise regularly provides one or more persons, as defined by the State Human Services Licensing Act, with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers for children, day training and rehabilitation services for adults, day treatment programs, adult day care centers, and day services.

17. **District.** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

18. **Drive-Through Facilities.** Physical facilities that permit customers to receive services or obtain goods while remaining in their motor vehicles. Examples include, but are not limited to, bank, drug store, and restaurant drive-through facilities.

19. **Elderly (Senior Citizen) Housing.** A public agency owned or controlled or privately owned multiple dwelling building with occupancy limited to persons over fifty-five (55) years of age or older.

20. **Essential Services**. Overhead or underground electrical, gas, steam of water distribution systems structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including utility towers, water towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith but not including buildings. Personal wireless service and commercial broadcasting antennas and towers shall not be considered an essential service.

21. **Exterior Storage/Outside or Outdoor Storage/Storage Yards.** An outside area where the storing of equipment or material and the storing or parking of vehicles, trailers, or semi-trucks used in the everyday operation of the principal use. Outdoor sales lots are not outdoor storage but are distinct uses regulated by this ordinance.

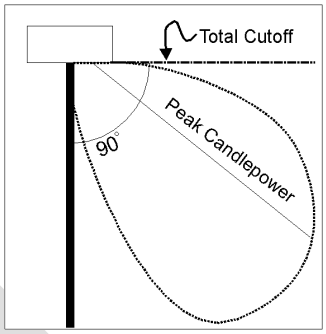
22. **Family.** Two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.
23. **Farm.** Real property used for commercial agriculture or horticulture comprising at least twenty (20) contiguous acres and which may contain other contiguous or noncontiguous acreage, all of which is owned or leased and operated by a single family, family corporation, individual or corporation.
24. **Farm, Limited (Hobby Farm).** A limited farm is a food producing use primarily intended for the use of the residents and on parcels of from one (1) to twenty (20) contiguous acres in size. Limited farming uses may include the production of crops, such as fruits, vegetables, flowers, plants, shrubs and trees. Animals and domestic pets may be allowed subject to the provisions of this Ordinance.
25. **Flag.** Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.
26. **Flood**. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
27. **Flood Frequency**. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
28. **Home Business**. Any lawful occupation or profession conducted within a dwelling unit by the owner and/or occupant, which is subordinate to the residential use of the principal or accessory structure.
29. **Homeowners Association.** A community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.
30. **Hotel including Extended Stay Hotels.** An establishment offering lodging accommodations including provisions for meals to the general public on a daily or weekly basis, leasable events space, meeting or conference facilities and exhibition halls or other uses of similar character. May also be referred to as motel or extended stay motel. A hotel becomes an extended stay hotel when a guest stays longer than 30 days.
31. **Impervious Surface.** An artificial or natural surface through which water, air or roots cannot penetrate.
32. **Individual Sewage Treatment System (ISTS) or Individual Sewage Disposal System.** A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks followed by soil treatment and disposal or using advanced treatment devices that discharge below final grade. Individual sewage treatment system includes holding tanks and privies (per Minnesota Rules 7080).
33. **Interim Use.** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow said use.
34. **Junk Yard**. An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto-wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.
35. **Kennel, Commercial.** Any structure or premises on which more than three (3) dogs or cats, over six (6) months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.
36. **Kennel, Private.** Any structure or premises in which three (3) or less dogs, over six (6) months of age, are kept for private enjoyment and not for monetary gain. Every kennel shall be enclosed or fenced in such manner as to prevent the running at large or escape of animals confined therein.
37. **Land Reclamation.** The process of the re-establishment of, acceptable topography (i.e., slopes), vegetative cover, soil stability, and the establishment of safe conditions appropriate to the subsequent use of the land.

38. **Landscaping**. To include, but not limited to plantings, trees, grass, ground cover (mulch and rock) and shrubs.

39. **Lighting Related:**

a. *Cutoff.* The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.

b. *Cutoff Angle.* The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted (see Figure 1 at right).



c. *Cutoff Type Luminaire.* A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.

d. *Flashing Light.* A light source which is not constant in intensity or color at all times while in use.

e. *Foot candle.* A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.

f. *Light Source.* A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.

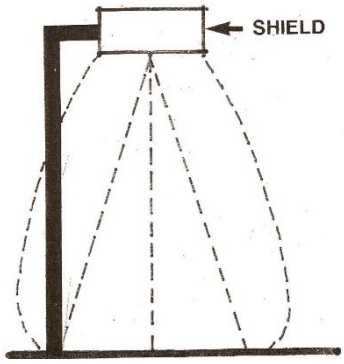
g. *Luminaire.* A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

h. *Outdoor Lighting.* Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground or located on freestanding poles.

i. *Outdoor Light Fixture.* Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and flood lights.

j. *Security Lighting.* Outdoor lighting fixtures installed exclusively for the protection of property and public safety.

k. *Shielding.* A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture (see Figure at right).



l. *Spillage.* Any reflection, glare or other artificial light that emits onto any adjoining property or right-of-way and is above a defined maximum illumination.

40. **Lodging Room**. A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.

41. **Manufacturing, Light**. The manufacturing or assembly of a product whether in its final version or not. All materials and products must be stored within the structure. Examples of the types of use are electronic assembly, dental laboratories, etc.

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42. **Micro-Brewery**. A facility for brewing beer that produces less than 3,500 barrels per year. It may include a tap room and retail space to sell beer to patrons on the site.
43. **Microdistillery.** A facility for distilling spirits not to exceed the Minnesota State Statute allowed amount in a calendar year. It may include a cocktail room and retail space to sell spirits to patrons on the site.
44. **Mini Self-Storage.** An enclosed storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for the storage of household or commercial goods or personal belongings.
45. **Mining**. The extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.
46. **Model Home.** A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.
47. **Non-Conforming Building or Structure, Legal**. A building or structure which legally exists at the time of the adoption of this Ordinance which does not comply with the regulations of this Ordinance or any amendments hereto governing the Base Zoning District or Overlay District in which such building or structure is located.
48. **Non-Conforming Use, Legal.** A use or activity which was lawful prior to the adoption, revision or amendment of this Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the Base Zoning District or Overlay District.
49. **Nuisance.** Anything defined as a nuisance by Section 2010 of the City Code.
50. **Nursing Home**. A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statute, Section 144.50.
51. **Off-street Loading Space.** A space accessible from the street, alley, or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.
52. **Obstruction**. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, water-course, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
53. **Official Zoning Map**. The Zoning Map established by the City Council, in accordance with the Municipal Planning Act, (MSA 462), showing Base Zoning Districts, Overlay Districts, streets, highways and parks.
54. **Open Sales Lot (Exterior Storage)**. Any land used or occupied for the purpose of buying and selling goods, materials, or merchandise and for the storing of same under the open sky prior to sale.
55. **Open Space (Usable)**. Open areas, including parks, nature areas, playgrounds, and trails. This does not include holding ponds.
56. **Open Space Recreational Uses**. Recreational use particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreation areas.
57. **Ordinance**. Brainerd Zoning Ordinance.
58. **Parking Lot.** An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.
59. **Parking Space**. A surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) automobile.

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60. **Party Wall.** A common shared wall between two (2) separate structures, buildings, or dwelling units.
61. **Permitted Use.** Any use allowed in a Base Zoning District and subject to the restrictions applicable to that Base Zoning District.
62. **Personal, Professional, and Recreational Vehicle Repair, Major.** General repair, rebuilding or reconditioning engines, vehicles, trailers or similar; collision service, including body, frame or fender straightening or repair; overall painting or paint job; transmission repair; vehicle steam cleaning; and similar activity.
63. **Personal, Professional, and Recreational Vehicle Repair, Minor.** The replacement of any part or repair of any part which does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work and upholstering service; and similar activity. Above stated is applied to passenger vehicles and trucks not in excess of 7,000 pounds gross weight.
64. **Place of Worship**. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
65. **Planned Unit Development (PUD).** An area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned residential developments and/or one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of non-residential uses to residential uses as shall be specified in the Overlay District.
66. **Practical Difficulty.** The same as that term is defined in Minnesota Statutes, Chapter 462.
67. **Principal Use.** The primary or predominant use of any land and/or buildings and the main purpose for which the land and/or buildings exist.
68. **Public Land**. Land owned or operated by municipal, school district, county, state or other governmental units.
69. **Reclamation-Land**. The improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.
70. **Recreation Equipment**. Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, play houses exceeding 25 square feet of floor area, or sheds utilized for storage of equipment.
71. **Recreation, Public**. Includes all uses that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.
72. **Recreational Vehicle.** A vehicle designed and used for recreational purposes and enjoyment including, but not limited to, snowmobiles, motorized all-terrain vehicles, boats, boat trailers, travel trailers, truck campers, camping trailers, and self-propelled motor homes. This definition does not include race cars or stock cars.
73. **Regional Flood**. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in magnitude of the 100 year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
74. **Residential Facility, State Licensed.** Any facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with a 24 house per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include but are not limited to: state institutions under the control of the Commissioner of Human Services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults, or schools for handicapped children.

75. **Sexually Oriented Activities Related Terms.**

a. "Adult Establishment" means:

b. Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or

c. Any business that engages in any adult use as defined in Subdivision 2 of this Section.

d. Adult Use. Any of the activities and businesses described below:

i. "Adult Body Painting Studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

ii. "Adult Bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

iii. "Adult Cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

iv. "Adult Companionship Establishment" means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

v. "Adult Conversation/Rap Parlor" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

vi. "Adult Health/Sport Club" means a health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

vii. "Adult Hotel or Motel" means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

viii. "Adult Massage Parlor/Health Club" means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

ix. "Adult Mini-Motion Picture Theater" means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

x. "Adult Modeling Studio" means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual

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Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

xi. "Adult Motion Picture Arcade" means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

xii. "Adult Motion Picture Theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.

xiii. "Adult Novelty Business" means an establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.

xiv. "Adult Sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

xv. "Adult Steam Room/Bathhouse Facility" means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

xvi. "Nude" or "Specified Anatomical Areas" means:

a. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola.

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

xvii. "Specified Sexual Activities" means:

a. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zooerastia;

b. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

d. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

e. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

f. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

g. Human excretion, urination, menstruation, or vaginal or anal irrigation.

h. "Substantial or Significant Portion" means: twenty-five (25) percent or more.

76. **Shopping Center**. A group of commercial establishments built on a site which is planned and developed as an operating unit. Typically, the sharing of common space and services such as parking, maintenance and advertising exists.

77. **Sign - Abandoned:** Any sign and/or its supporting sign structure which remains without a message or whose display surface remains bland for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a Conditional Use Permit or a Variance also be subject to the definition of abandoned sign.

78. **Sign – Awning Sign.** A building sign or graphic printed on or in some fashion attached directly to the awning material.

79. **Sign – Balloon Sign.** A sign consisting of a bag made of lightweight material supported by helium, hot or pressurized air which is greater than twenty-four (24) inches in diameter.

80. **Sign – Banner Sign.** A sign made of fabric or any non rigid material with no enclosing or supporting framework.

81. **Sign – Bench Sign.** Any sign located on the back of a courtesy bus bench placed on or adjacent to a public right-of-way.

82. **Sign – Billboard.** Any off-premise sign having an area of more than three hundred (300) square feet.

83. **Sign** - **Building Sign.** Any sign attached or supported by any building.

84. **Sign - Cabinet Sign.** Any sign that is not of channel or individually mounted letter construction.

85. **Sign - Canopy Sign.** Any sign that is a part of or attached to a canopy made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

86. **Sign - Changeable Copy Sign, Manual.** A sign or portion thereof that has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects not consisting of an illumination device and may be changed or rearranged manually or mechanically with characters, illustrations, letters or numbers that can be changed or rearranged without altering the face or surface of the sign structure.

87. **Sign - Changeable Copy Sign, Electric.** A sign or portion thereof that displays electronic, non-pictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or objects. Electronic changeable copy signs do not include official signs.

88. **Sign - Changeable Copy Sign, Graphic.** A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixilization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

89. **Sign - Commercial Speech Signage.** A sign advertising a business, profession, commodity, commercial service or entertainment.
90. **Sign - Electric Sign.** A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixalization or dissolve modes. Electronic signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic signs include projected images or messages with these characteristics onto buildings or other objects.
91. **Sign - Flashing Sign.** A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation or mode of lighting which resembles zooming, twinkling or sparkling.
92. **Sign - Freestanding Sign.** Any permanent sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.
93. **Sign - Height of Sign.** Shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.
94. **Sign - Illuminated Sign.** Any sign which contains an element designed to emanate artificial light internally or externally.
95. **Sign - Legally Established Non-Conforming Sign.** Any sign and its support structure lawfully erected prior to the effective date of this Ordinance which fails to conform to the requirement of this Ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this Ordinance and which does not comply with this Ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.
96. **Sign - Marquee.** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.
97. **Sign - Marquee Sign.** Any building sign painted, mounted, constructed or attached in any manner on a marquee.
98. **Sign - Monument Sign**. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which does not exceed eight (8) feet in height.
99. **Sign - Multiple Tenant Sign.** Any site which has more than one (1) tenant and each tenant has a separate ground level exterior public entrance.
100. **Sign - Multi-Vision Sign.** Any sign composed in whole or part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows, on a single sign structure, the display at any given time one of two or more images.
101. **Sign - Non-Commercial Speech Sign.** A sign displaying a dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, civic events and informational topics.
102. **Sign - Official Sign.** Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, direction to public facilities when erected by or on behalf of a public official or employee in the performance of official duty.
103. **Sign - Off-premise Sign.** A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where sign is located. For purpose of this sign Code, easements and other appurtenances shall be considered to be outside such lot

and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

104. **Sign - On-Premise Signs.** Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

105. **Sign - Pole Sign.** See Pylon Sign.

106. **Sign - Projecting Sign.** Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.

107. **Sign - Pylon Sign.** Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

108. **Sign - Roof Sign.** Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure.

109. **Sign - Roof Sign, Integral.** Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the room and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

110. **Sign - Rotating Sign.** A sign or portion of a sign which in any physical part or in total turns about on an axis, rotates, revolves or is otherwise in motion, including without limitation a multi-vision sign.

111. **Sign - Shimmering Sign.** A sign which reflects an oscillating or distorted visual image.

112. **Sign.** Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

113. **Sign - Sign Area.** The area within the marginal lines created by the sign face which bears the advertisement or, in the case of messages, figures or symbols attached directly to the part of the building, which is included in the smallest geometric figure which can be made to circumscribe the message, figure or symbol displayed thereon.

114. **Sign - Sign Face.** The surface of the sign upon, against, or through which the message of the sign is exhibited.

115. **Sign - Sign Structure.** Any structure including the supports, uprights, bracing, and framework which supports or is capable of supporting any sign.

116. **Sign - Suspended Sign.** Any building sign that is suspended from the underside of a horizontal plan surface and is connected to this surface.

117. **Sign - Temporary.** A sign erected or placed on private property for a limited period of time including but not limited to signs affixed or attached to vehicles including trailers.

118. **Sign - Total Site Signage.** The maximum permitted combined area of all signs allowed on a specific property.

119. **Sign - Video Display Sign.** A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that gives the illusion of motion, including, but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

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120. **Sign - Wall Sign.** Any building sign attached parallel to but within two (2) feet of a wall painted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall or building and which displays only one (1) sign surface.

121. **Sign - Window Sign.** Any building sign, pictures, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event sale, or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

122. **Significant Woodland.** A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property, which are comprised of deciduous trees between four (4) inches and twelve (12) inches in diameter or coniferous trees between four (4) feet and twelve (12) feet in height.

123. **Solar Related.**

a. *Passive Solar Energy System.* A solar energy system that uses natural and architectural components to collect and store solar energy without using any external mechanical power.

b. *Solar Access Space.* That airspace above all lots within the Zoning District necessary to prevent any improvement, vegetation or tree located on said lots from casting a shadow upon any Solar Device located within said zone greater than the shadow cast by a hypothetical vertical wall ten (10) feet high located along the property lines of said lots between the hours of 9:30 a.m. and 2:30 p.m., Central Standard Time on December 21. This Ordinance shall not apply to any improvement or tree which casts a shadow upon a Solar Device at the time of the installation of said device, or to vegetation existing at the time of installation of said Solar Device.

c. *Solar Collector.* A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.

d. *Solar Energy.* Radiant energy (direct, diffuse, and reflected) received from the sun.

e. *Solar Energy System.* A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). To qualify as a solar energy system, the system must be permanently located for not less than ninety (90) days in any calendar year beginning with the first calendar year after completion of construction.

f. *Solar Space.* The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.

g. *Solar Sky Space Easement.* A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar sky space of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar sky space must be described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two (2) methods.

h. *Solar Structure.* A structure designed to utilize solar energy as an alternate for, or supplement to a conventional energy system.

124. **Specialty Food Shops.** An establishment specializing in selling one type or line of edible or drinkable products catering to the takeout client and not offering full-service meals. Examples include coffee, candy, ice cream, etc. Product manufactured on site such as candy or ice cream must be over the counter on site sales.

125. **Sport Court.** A facility that typically includes a paved playing surface for one or more sport activities such as, but not limited to, tennis, basketball, or volleyball.

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126. **Stable, Commercial.** The business of boarding horses for fee for persons not residing on the premises and may include instruction, exhibition and sale of horses. This shall include the raising and breeding of horses.

127. **Storage, Outdoor.** Keeping of any personal property, commercial, or industrial property that is not enclosed in a .

128. **Stringer.** A line of string, rope, cording or an equivalent to which is attached a number of pennants.

129. **Surface**. A road, driveway, approach, parking lot which consists of gravel, crushed rock, lime rock, bituminous surface, concrete surface, or other similar material.

130. **Swimming Pool.** Any indoor or outdoor structure intended for swimming, wading or recreational bathing. The structure may be constructed, installed or located in-ground, partially in-ground or above ground and may include permanent or storable swimming pools, hot tubs and spas.

131. **Taproom/Tasting Room**. A facility on the premises of and accessory to a licensed brewery intended for the on-sale consumption and limited off-sale beer produced by the brewer as authorized by Minnesota Statutes Section 340A.301 Subdivision 6B.

132. **Temporary Structure.** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

133. **Toxic and Hazardous Wastes**. Waste materials including, but not limited to: poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.

134. **Tree.** Any of the following type of trees, as each is defined herein:

    a. *Coniferous Tree.* A woody plant which, at maturity, is at least 12 feet or more in height, having foliage on the outermost portion of the branches year-round.

    b. *Deciduous Tree.* A woody plant which, at maturity, is at least 15 feet or more in height, having a defined crown, and which sheds leaves annually.

    c. *Significant Tree.* A healthy tree measuring a minimum of six (6) inches in diameter for deciduous trees, or a minimum of 12 feet in height for coniferous trees.

    d. *Significant Tree Stand.* A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying 500 or more square feet of property, which are comprised of deciduous trees six (6) inches or larger in diameter or coniferous trees 12 feet or higher in height.

    e. *Specimen Tree*. A healthy hardwood tree measuring equal to or greater than 30 inches in diameter and/or a coniferous tree measuring 50 feet or greater in height.

135. **Tree Certification.** A certified inventory of trees on the site after work is complete listing all trees and their final disposition, which is signed by a licensed forester or landscape architect.

136. **Tree Preservation Plan.** A plan and inventory certified by a forester or landscape architect indicating all of the significant trees and their locations in the proposed development or on the lot. The tree preservation plan shall include the size, species, tag numbers, and location of all significant trees proposed to be saved and removed on the area of development, and the measures proposed to protect the significant trees to be saved.

137. **Transient Merchant**. Any person, firm or corporation, whether a resident of the City of Brainerd or not, who engages temporarily in the business of selling and delivering goods, wares or merchandise within the City of Brainerd, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle or trailer.

138. **Transient Produce Merchant**. Any person who engages in or transacts in any temporary and transient business within the City selling products of the farm or garden occupied and cultivated by that person; and,

who for the purposes of carrying on such business, hires, leases, occupies, or uses, a building, structure, vacant lot, motor vehicle trailer, or railroad car, on a site other than the property on which the produce is grown and cultivated in a zoning district where it is allowed by this Ordinance.

139. **Trucking Terminal.** Land or buildings used primarily as a relay station for the transfer of freight from one vehicle to another or one party to another rather than permanent or long-term storage. The terminal facility might include storage areas for trucks and buildings for truck maintenance and repair.

140. **Use**. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained.

141. **Use, Permitted**. A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

142. **Use, Principal**. The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

143. **Variance**. A modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation. A variance shall normally be limited to height, density and yard requirements.

144. **Warehousing**. The storage of materials or equipment within an enclosed building.

145. **Waterbody or Watercourse.** Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.

146. **Wetland**. Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.

147. **Wind Energy Conversion Systems (WECS)**. Any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of useable energy.

148. **Wind Energy Conversion System, Small**. A wind energy conversion system consists of a wind turbine and associated control or conversion electronics and is used primarily to reduce on-site consumption of utility power. Small wind energy conversion systems are an administrative accessory use in residential districts and shall be attached to an existing principal building. A small wind energy conversion system shall not exceed a rated capacity of 100 kWh.

149. **Zoning Amendment**. A change authorized by the City either in the allowed use within a Base Zoning District, re-zoning to an Overlay Zoning District or alteration of the boundaries of a Base or Overlay Zoning District.

150. **Zoning District**. An area or areas within the limits of the City for which the regulations and requirements governing use are uniform as defined by this Ordinance.

DRAFT

APPENDIX A: TABLE OF USES

P - Permitted
AP - Administrative Permit
C - Conditional Use Permit
I – Interim Use Permit
Blank – Not Permitted

ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
RESIDENTIAL USES																	
Agriculture uses		P	P														
Accessory buildings under 200 SF	515-4-6	AP	AP	AP	AP	AP	AP	AP	AP								
Accessory buildings over 200 SF	515-4-6	P	P	P	P	P	P	P	P								
Accessory Dwelling Unit (ADU)		P	P	P	P/C	P/C	P/C	P	P/C								
Home businesses	515-3-19	P	P	P	P	P	P	P	P			P	P				
Home businesses not meeting criteria	515-3-19	AP	AP	AP	AP	AP	AP	AP	AP			AP	AP				
In home day care, serving no more than 14 persons		AP	AP	AP	AP	AP	AP	AP	AP								
Multi-family attached dwelling units (5+ Units)						C		C	P			C					
Mixed-Use Building, including residential uses not on main floor								C	C			C	C				
Model Homes	515-3-23	P	P	P	P	P	P	P	P	P	P	P	P				
Personal storage of recreational vehicles & equipment	515-3-31	P	P	P	P	P	P	P	P								
Recreational Facilities for private residential use		P	P	P	P	P	P	P	P								
Senior housing	515-3-33					P		P	P			C	C				
Single Family Detached Dwelling Unit	515-4-2	P	P	P	P	P	P	P	P			C					
Single Family Attached Dwelling Unit (2-4 Units)	515-4-2				P	P	P	P	P			P	P				
COMMERCIAL/GENERAL BUSINESS USES																	
Adult Establishments and/or Uses	515-3-4														C		

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BRAINERD, MN
Section 515-3 ALLOWED USES.
APPENDIX A: TABLE OF USES

ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
Animal hospital, veterinary clinic, or kennels	515-3-5							C	C	C	C			C	C		
Armories										C					P		
Auto dealership	515-3-6									C	C			C	C		
Bed and breakfasts	515-3-9	C	C	C	C	C	C	C	C			C	C				
Boarding houses						C		C	C								
Brew Pub/Brewery (off-sale, on-sale, taproom, tasting room, etc.), cidery, microdistillery, cocktail room	515-3-10							C	C	C	C	C	C	P	P		
Car wash accessory to motor vehicle sales	515-3-13									P	P			P	P		
Commercial animal kennels	515-3-5	C	C												C		
Commercial car washes (drive-up, mechanical and self service)	515-3-13									C	C				C		
Commercial day care facilities	515-3-14	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Commercial greenhouses supporting the operations of a restaurant or floral shop	515-3-15							I	I	I	I	I	I				
Commercial riding stables	515-3-16	C															
Commercial/Retail establishments								P	P	P	P	P	P	P			
Commercial laundry facilities								C	C	P	P			P			
Drive-through business	515-3-17							C	C	P	P	C					
Contractor offices										C	C			P	P		
Cultural facilities such as museums, art centers, or art institute								P	P	P	P	P	P	P		P	
Drive-through Businesses	515-3-17								C	P	P	C					
Financial Institutions such as banks and credit unions										P	P	P	P				
Food Trucks (Transient food unit)	515-3-39									AP	AP	AP	AP	AP	AP	AP	AP
Funeral homes, mortuaries								C	C	C	C	C		C			

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ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
Health clubs/Gyms/Indoor Recreation Facilities								P	P	P	P	P	P	P	P	P	
Hospitality businesses limited to hotels, motels, conference/convention/reception facilities	515-3-20							C	P	P	P	P	P				
Hospitality businesses – extended stay	515-3-20																
Liquor sales, on sale										P	P	P	P	P	P		
Liquor sales, off sale								P	P	P	P	P	P	P	P		
Motor vehicle fuel sales	515-3-24							C	C	C	C	C			C		
Nurseries, greenhouses (commercial)	515-3-15	P	P					C	C	C	C			C	C		
Nursing homes & similar group housing	515-3-25					C		C	C	C	C						
Off street parking lots or parking garages (as principal use)	515-3-30 515-4-12							C	C	C	C	C	C				
Office businesses – (general use, medical clinic)								C	C	P	P	P	P	P			
Outdoor dining facilities accessory to a restaurant	515-3-27							AP	AP	AP	AP	AP	AP				
Parking Lots	515-3-30							C	C	C	C	C	C	C	C	C	
Pawn shops								P	P	P	P	P	P	P			
Personal services such as barber/beauty shop, nail salon, tanning salon, therapeutic massage and spas.								P	P	P	P	P	P	P			
Private clubs & lodges								C	C	C	C	C	C	C			
Recreation Centers (large health clubs, gyms, etc.) exceeding 30,000 SF										C				C	P		
Restaurants – sit down, take out or delivery (no drive-up window)								P	P	P	P	P	P				
Retail businesses contained within a principal building								P	P	P	P	P	P	P			
Seasonal Merchandise Sales include fruit/vegetables, Christmas trees, plants and										AP	AP	AP					

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ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
ancillary products in which less than one half of the product retailed is initially planted and raised therein																	
Senior center						C		C	C	C	C	C					
Short term rentals (VRBO, Air BnB, etc.)	515-3-34	I	I	I	I	I	I	I	I			I	I				
Signs	515-3-35	See Section 515-3-35 for Permit Requirements															
Specialty food shops	55-3-36							P	P	P	P	P	P				
State licensed residential facilities (serving 7-16 persons)						C		C	C	C	C						
Studios – art, dance, music, design, photography, etc								C	C	P	P	P	P				
Taxi or bus dispatch sites										P	P			P	P		
Telecommunication towers	515-3-42													AP	AP		
Temporary mobile towers.	515-3-42													AP	AP		
Temporary roadside stands		P	P	P													
Temporary/seasonal outdoor promotional events and sales	515-3-38							AP	AP	AP	AP	AP	AP	AP			
Theaters – except drive-in										P	P	P	P				
PUBLIC/SEMI-PUBLIC USES																	
Boarding Schools								C	C	C	C	C					
Business or trade school when conducted entirely within a building								C	C	P	P	C	C				
Cemeteries																C	
Colleges and universities										C	C					P	
Government & public buildings (including utility buildings and structures)			C	C	C	C	C	C	C	P	P	P	P	P	P	P	P
Hospitals						C		C	C	C	C					P	

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ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
Forest and game management areas		C														P	P
Places of worship & related buildings		C	C	C	C	C	C	C	C	P	P	C	C	P	P	P	
Public & private schools		C	C	C	C	C	C	C	C	C	C	C		C	C	P	
Public recreation areas and buildings		P	P	P	P	P	P	P	P			C	C			P	
Public, semi-public recreational buildings, community centers		C	C	C	C	C	C	C	C			C	C			P	
Temporary classroom buildings (public or private schools)					I	I	I	I	I							I	
Trade/specialty schools.														C	C		
Warming shelters	515-3-41									I	I	I		I		I	
INDUSTRIAL AND UTILITY USES																	
Auto wrecking or salvage yard, junk yard, used auto parts, and similar uses.	515-3-8														C		
Automobile and truck repair – major and minor (including body shops)	515-3-7									C	C			C	C		
Billboard signs	515-3-35													I	I		
Bulk liquid storage (including crude oil, gasoline, liquid fertilizer, or other liquid storage)	515-3-11														C		
Coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing.	515-3-12														C		
Commercial/retail sales accessory to the principal manufacture, processing or wholesaling of products manufactured on, processed on or wholesaled from the premises.														P	P		
Commercial stockyards and slaughtering of animals provided that the use complies with all Federal regulations including USDA rules and regulations.															C		
Machine shops; paper products from previously processed paper; electronics assembly and														P	P		

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ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
testing; commercial printing and publishing establishments; laundry, dry cleaning or dying plants; food/beverage processing; cosmetics/toiletries; drugs and pharmaceuticals; beverage bottling; recycling center; woodworking (indoors)																	
Construction equipment sales and repair										C				P	P		
Electrical/Plumbing/Heating/Air Conditioning products and parts										C				P	P		
Equipment rental (indoor)										P	P			P	P		
Essential services	515-3-18	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Kilns, forges or other heat processes fired by means other than electricity.															C		
Light manufacturing										C	C			P	P		
Metal Sales such as steel and other raw materials														P	P		
Mini self-storage facilities.	515-3-21														C		
Mining and extraction	515-3-22	I															
Outdoor service, sales and rental as a principal or accessory use.	515-3-28													C	C		
Outdoor storage accessory to a principal use with enclosed building.	515-2-26									C				C	P		
Outdoor storage as a principal use	515-2-26														I		
Personal wireless service towers	515-3-42	C	C	C	C	C	C	C	C	AP	AP	AP	AP	AP	AP		
Outdoor wood burning furnaces, placement and operation	515-3-29														C		
Radio & television antennas	515-3-42	AP	AP	AP	AP	AP	AP	AP	AP								
Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave	515-3-42									AP	AP	AP	AP	AP	AP		

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ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers																	
Radio and television studios										C	C			P	P		
Sale of parts and sale and repair of tires for construction equipment and semi tractor trailers														P	P		
Sales and distribution of propane, acetylene, helium, CO2 and similar tanks															P		
Refuse/garbage collection, recycling and incineration	515-3-32														C		
Regional pipelines		C												C	C		
Research and development laboratories														P	P		
Residence for night watchman or other security personnel														AP	AP		
Self-service laundromat with dry cleaning pick up and drop off								C	C	P	P	P		P			
Small engine and boat repair								C	C	C	C			P	P		
Solar energy systems, structures		AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP		
Storage, utilization or manufacture of materials which could decompose by detonation, including but not limited to dynamite, trinitrotoluene (TNT), nitroglycerine, guncotton, blasting caps and cartridge primers.	515-3-37														C		
Testing labs for water and soil, rocks/minerals and air quality										P	P			P	P		
Tire vulcanizing and recapping.															P		
Truck and semi-tractor/trailer sales and repair	515-3-7													C	P		
Truck terminals.	515-3-40														C		

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ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
Warehousing, distribution facilities and wholesale businesses.														C	P		
Wind energy conversion system		I	I												I		

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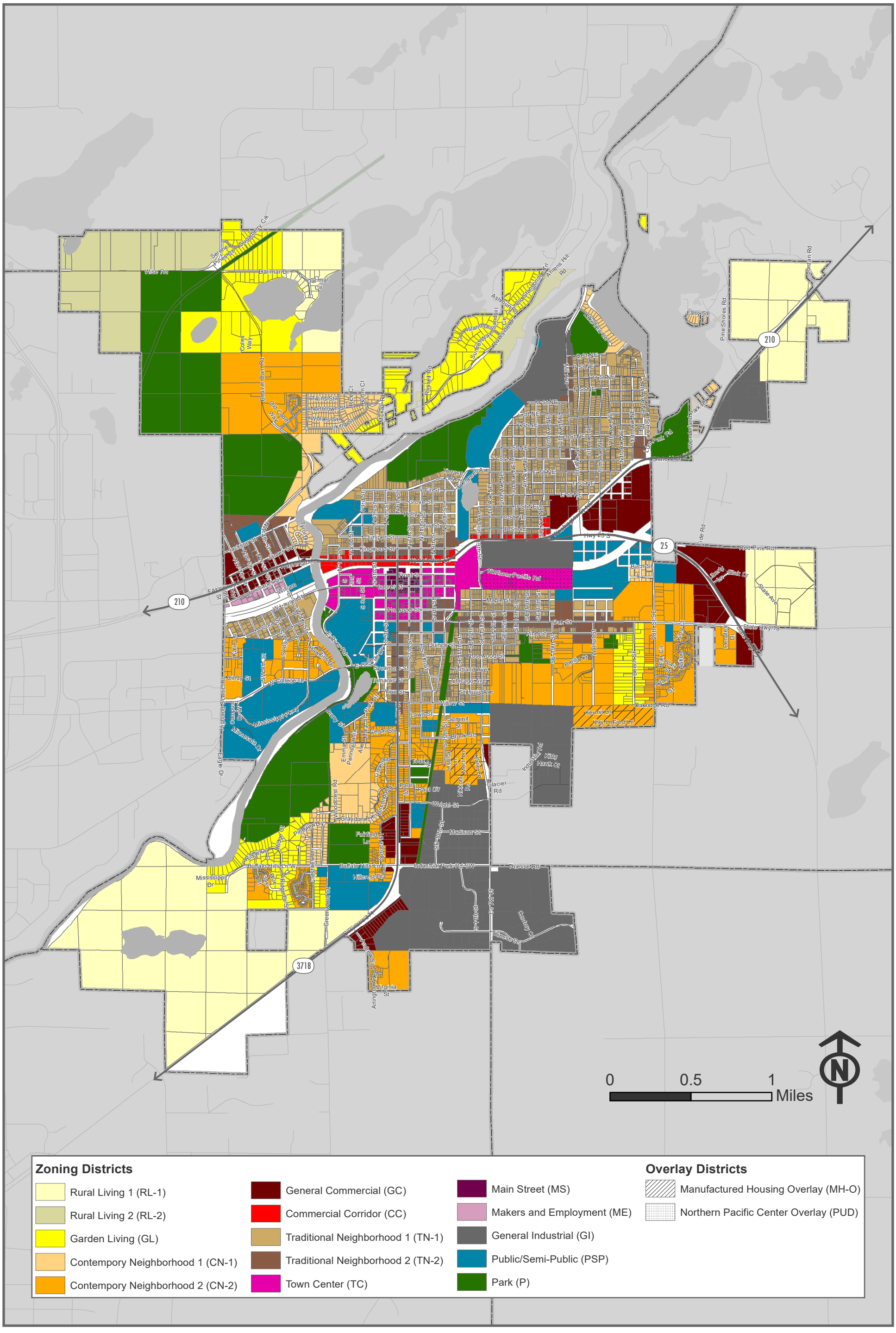
Zoning Map 3/11/2022 DRAFT



Zoning Districts

- Rural Living 1 (RL-1)
- Rural Living 2 (RL-2)
- Garden Living (GL)
- Contempory Neighborhood 1 (CN-1)
- Contempory Neighborhood 2 (CN-2)
- General Commercial (GC)
- Commercial Corridor (CC)
- Traditional Neighborhood 1 (TN-1)
- Traditional Neighborhood 2 (TN-2)
- Town Center (TC)
- Main Street (MS)
- Makers and Employment (ME)
- General Industrial (GI)
- Public/Semi-Public (PSP)
- Park (P)

Overlay Districts

- Manufactured Housing Overlay (MH-O)
- Northern Pacific Center Overlay (PUD)

M E M O

TO: Planning Commission

FROM: James Kramvik, Assistant Planner

DATE: March 10th, 2022

RE: Interim Use Permit for Commercial Greenhouse

Steven Zelinske has submitted a request on behalf of Yesterday's Gone for an Interim Use Permit to operate a commercial greenhouse supporting the operations of a licensed food establishment at an unaddressed parcel with an ID number of 41241525.

Findings of Fact

1. Parcel number 41241525 is currently located in a B-3 (Central Business) District.
    a. The parcel will be located in the TC-1 (Town Center) District upon adoption of the proposed zoning code and zoning map.
2. The operation of a commercial greenhouse supporting the operations of a licensed food establishment requires an Interim Use Permit in a TC-1 Town Center District per section 515-3-15.A of the proposed zoning code.
3. Approval of this Interim Use Permit must contingent upon the adoption of the new zoning code and zoning map.
4. Commercial greenhouses supporting the operations of a floral shop or licensed food establishment must comply with the following minimum standards: as required by the aforementioned section of the proposed zoning code:
    a. Structure framing shall be treated wood, aluminum, or steel and shall be covered by materials as regulated by Section 515-4-6 of this Ordinance.
        i. The proposed greenhouse structure will be constructed with a galvanized steel frame and covered with a double layer of 6mil polyethylene film.
        ii. Currently, the Zoning Code prohibits the use of flexible, rolled material as a greenhouse covering. However, on March 7th, the City Council directed staff to included flexible, rolled material as an allowed greenhouse covering in the proposed zoning code.
    b. Structure shall not exceed fifteen (15) feet in height.
        i. The proposed greenhouse height is 12'10" high x 24' wide x 72' long
    c. Structure may be located on a separate lot from the licensed food establishment or floral shop it supports provided that:
        i. The lot is within one-hundred fifty (150) feet of the business.
            1. The vacant lot that is proposed for construction of the greenhouse is located 20 FT across the alley from Yesterday's Gone.
        ii. The structure shall meet the setback requirements of the Base Zoning District or 10 feet from all property lines, whichever is greater.

1. *The proposed green house site plan meets the setback requirements. While he TC-1 District has the potential for zero-yard setbacks on all boundaries, the required setback for a greenhouse in this district is 10 feet from all property lines. The proposed greenhouse will have a 10' northern and a 16' southern side yard setback. The proposed front yard setback is 24'. The proposed rear yard setback is 20'.*

d. No outdoor storage.
e. Indoor storage shall be limited to material incidental to the operation of a greenhouse.
f. Should the licensed food establishment or floral shop cease operations, the greenhouse must be removed within 60 days
g. Sales shall only occur at the principal place of business that is supported by the greenhouse.
    i. *The applicant plans to use the proposed greenhouse to produce food and herbs for Yesterday's Gone. There will be no direct sales on the greenhouse property.*

5. The applicant has also proposed the construction of a chain link fence around the property if the greenhouse is approved and constructed. The fence will require an administrative permit and must comply with section 515-4-11 Fence Standards in the proposed zoning code.
6. The applicant will be required to apply for a commercial building permit as the structure is over 200 sq. ft. The proposed greenhouse must meet all Building Codes, City Codes, and Zoning Codes. The proposed greenhouse will be reviewed by the City of Brainerd Building Official, Zoning Administrator, and City Engineer prior to issuance of the permit. The commercial building permit must be issued prior to construction of the proposed greenhouse.

As of this writing, no one has contacted the Community Development Department with concerns or objections to the Interim Use Permit.

<u>Staff Opinion</u>
Staff recommends approval of this Interim Use Permit contingent upon adoption the proposed zoning code.

City Planning Department
City Hall – 501 Laurel Street
Brainerd, MN 56401
218/828-2309/Fax 218-828-2316
www.ci.brainerd.mn.us

Receipt # _____
Check # _____
Date paid: _____

INTERIM USE PERMIT

Application Form (residential - $250.00 / commercial - $500.00 +$500.00 escrow deposit)
(This form must be filled out completely before your application will be accepted)

Property Address for this *Interim Use Permit*: 219 SOUTH 9TH STREET

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use Permit to allow COMMERCIAL GREENHOUSE WITH 8 FEET TALL CHAIN LINK FENCE AROUND THE PERIMETER

_____ *at the property address listed above until the date of* _____

Legal Description (attach, if lengthy): Lot 3&4 Block 37 Addition FIRST ADDITION & LAUREL STREET

Property Owner: STEVEN ZELINSKE

Address: 15965 COUNTY RD 25 BRAINERD MN 56401
(Street) (City) (State) (Zip)

Contact Information #: 218-270-0365 (Home) 218-824-2050 (Business)
_____ (Fax) rgone@brainerd.net (E-mail)

Applicant: (if different than Property Owner) _____

Address: _____
(Street) (City) (State) (Zip)

Contact Information #: _____ (Home) _____ (Business)
_____ (Fax) _____ (E-mail)

Contact Person: (if different than Property Owner) _____

Address: _____
(Street) (City) (State) (Zip)

Contact Information #: _____ (Home) _____ (Business)
_____ (Fax) _____ (E-mail)

This Interim Use Permit may be approved if sufficient facts are presented at the Planning Commission and City Council meetings to support a finding that <u>all</u> of the attached criteria for granting an Interim Use Permit have been met.

Obtaining this *Interim Use Permit* does not absolve the applicant from obtaining all other applicable permits, such as Building Permits, MnDOT access permits, etc.

I (We) certify that I (we) have submitted <u>all</u> the required information to apply for an Interim Use Permit and that the information is factual.

Signed by: _____ **Date:** 2-28-22
(Property Owner)

STEVEN ZIELINSKI
(Property Owner-Please print Name)

_____ **Date:** _____
(Applicant-If different than owner)

_____
(Applicant - Please print name)

Interim Use Permit

Supporting Information

The City Council may approve an Interim Use Permit if all of the "Criteria for Review of Interim Use Permits" are met. In order to facilitate review of this application for an *Interim Use Permit,* the applicant must address each of the *"Criteria"*, referred to in Section 515-6-1 of the Zoning Ordinance.

1. **Public Health/Safety/Welfare.** The *Planning Commission* and the *City Council* shall review each application for the purpose of determining that each proposed use meets the following criteria referenced to in Section 6-14 and in addition, shall find adequate evidence that each use in its proposed location will address the following:
   (a) The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
   (b) The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.
   (c) The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
   (d) The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
   (e) The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
   (f) The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
   (g) The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.

(con't)

2/28/22

Site plan for proposed Greenhouse Project at Yesterdays Gone

Our intent is to mirror the year-round Greenhouse at Central Lakes College using the same type of groundcover and same anchoring technique.

Groundcover; Landscape Fabric over graded soil (as seen in picture)

Anchoring; 3" galvanized roll form anchor sleeve will be set 5 feet below grade and secured with concrete in form tubes

Anchors will protrude 18 inches above grade, lower side sashes will seat into anchors and be secured with a pin. (as seen in picture)

There will be a total of 36 anchors

Dimensions- 24' wide x 72' long x 12'10" high

Sidewalls- 6' high

Frame- galvanized steel 18 gauge

Covering- double layer of 6mil polyethylene film

Arches- (2) piece arch, 9 ½ " roll formed galvanized steel

Purlins- (1) run 5" rollform under peak. (4) runs under arch

Lot will be enclosed with an 8' tall chain link fence with two 10' wide gates one on East side and one on West side.

We will need to have power ran to this lot.

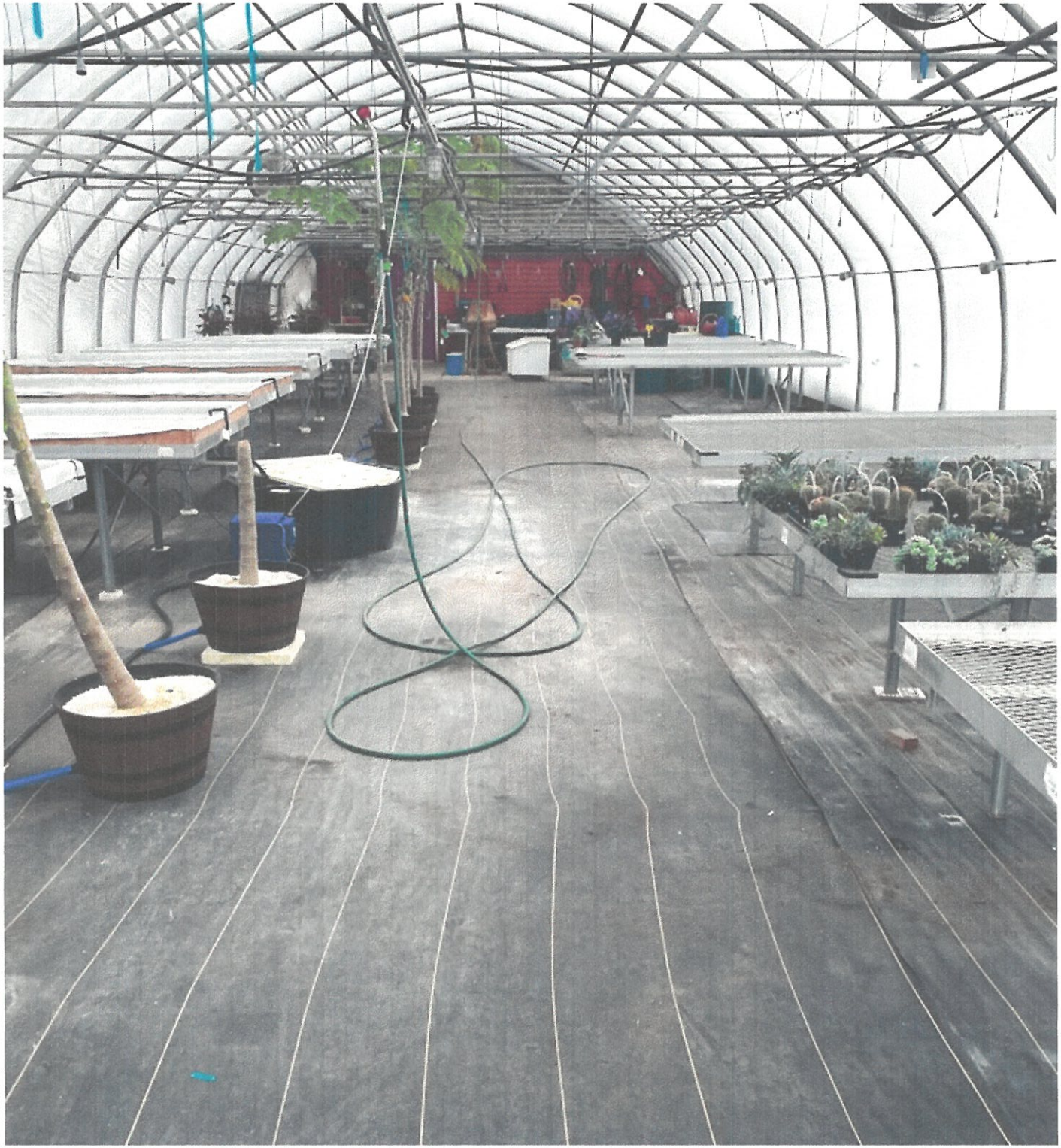
We will not need city water at this lot.

Thank you

Steve Zelinske

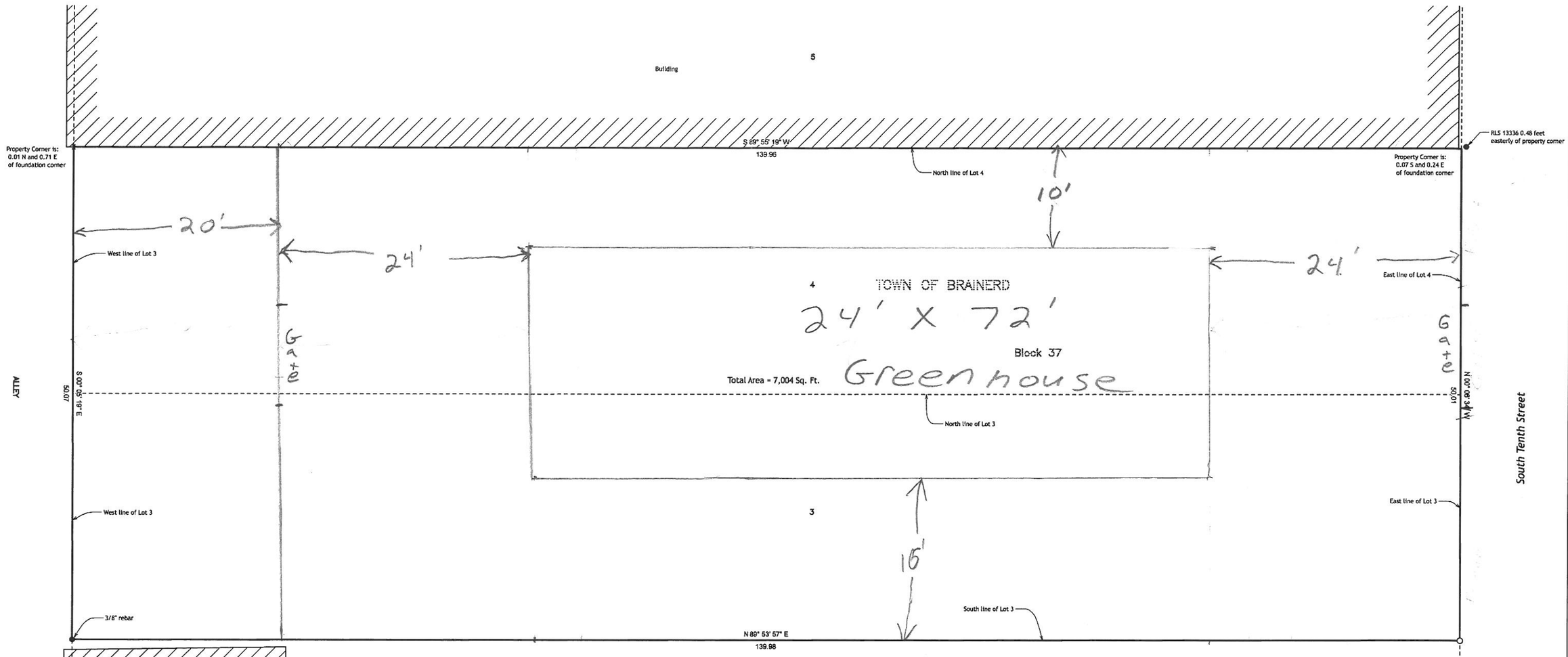
218-270-0365

ygone@brainerd.net



FLOOR

ANCHOR



Surveyors Notes

The property address for the subject property is

Not Declared

The Parcel Number for the subject property is *41241525*.

The current zoning classification for the subject property is Central Business District (B-3)

This survey was completed without the benefit of a title commitment or title opinion, there may be easements or other limiting factors that affect the subject property that are not shown on this survey.

Legal Description

Lot 3 and 4, Block 37, TOWN OF BRAINERD, Section 24, Township 45 North, Range 31 West, Crow Wing County, Minnesota.

NO.	REVISIONS SINCE INITIAL DATE OF	DATE

KLD
KRAMER LEAS DELEO
SURVEYING • ENGINEERING • PLANNING
BRAINERD ST. CLOUD

1120 Industrial Park Road
Brainerd, MN 56401
218-829-6333

12 North 11th Avenue
St. Cloud, MN 56303
320-259-1286

I HEREBY CERTIFY THAT THIS PLAN, SURVEY, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature: James Kramer — 07/30/2020

James Kramer, MN License No. 23668 — Date

PROJECT NO. ZELIB2001

CERTIFICATE OF SURVEY

Topographic and Property Boundary Survey

Beaver Zelinski
Section 24, Township 45 North, Range 31 West
Crow Wing County, Minnesota

Sheet No. 1 of 1

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Steven Zelinske has submitted a request on behalf of Yesterday's Gone for an Interim Use Permit to operate a commercial greenhouse supporting the operations of a restaurant. The property included in this application is located across the alley from Yesterday's Gone and is described as:

LOTS 3 & 4 BLOCK 37 TOWN OF BRAINERD & FIRST ADDITION TO BRA
P.I.N. 41241525
Section 24, Township 45, Range 31

The property is zoned B-3 (Central Business District), and Zoning Ordinance Section 515-62-5 (Central Business District) Interim Uses permits the operation of a commercial greenhouse supporting the operations of a restaurant provided that it meets the required provisions as listed under 62-5.A. A copy of the site plan for the proposed greenhouse is on file for review at the Community Development Department.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, March 16, 2022 in the Council Chambers at Brainerd City Hall, 501 Laurel Street, to consider the Interim Use Permit request.

Any individual needing special accommodations or would like more information about this request, please call (218) 828-2309.

Dated this 2nd day of March 2022

David C. Chanski, MPA
Community Development Director

Publication Date: March 6th, 2022

M E M O

TO: Planning Commission

FROM: James Kramvik, Assistant Planner

DATE: March 10th, 2022

RE: Interim Use Permit for Short Term Rental

Kelly Woodman has submitted a request for an Interim Use Permit to operate a short term rental at 704 Fir St.

Findings of Fact

1. 704 Fir St. is currently located in a R-1 (Single Family Residential) District.
    a. 704 Fir St. will be located in TN-1 (Traditional Neighborhood 1) District upon adoption of the proposed zoning code and zoning map.
2. The operation of a short-term rental requires an Interim Use Permit in a R-1 Single Family District per section 515-54-4.6 of the Code of Ordinances.
    a. The operation of a short term rental is also an Interim Use in the TN-1 District per section 515-3-34 of the proposed zoning code.
3. Short-term rentals must comply with the following minimum standards: as required by the aforementioned section of the Code:
    a. The minimum rental period shall not be more than 28 consecutive nights.
        i. *The applicant understands that she must inform staff when the property is being used as long-term rental. A long term rental is any lease that exceeds 28 days.*
    b. The permit holder (owner) of a short term rental must apply for and receive an interim use permit. Owner occupied dwellings that are also short term rentals do not require an interim use permit.
        i. *This is not an owner-occupied dwelling and therefore requires an interim use permit to operate as a short term rental.*
    c. The application for an interim use permit shall include:
        i. All information required for a conditional use permit.
            1. *This requirement in the current zoning code has been removed in the proposed zoning code because the submittal list in the short-term rental section is very detailed. All required information in the proposed zoning code has been submitted by the applicant.*
        ii. Floor plan of the structure, including the number of bedrooms with dimensions and all other sleeping accommodations.
            1. *The proposed zoning code does not require a floor plan. However, the applicant must state the number of bedrooms with dimensions and all other sleeping accommodations. The*

applicant has provided the following information regarding the bedrooms to be made available for rent:

a. *Bedroom 1: 11 x 16 (currently has a king size bed)*
b. *Bedroom 2: 11 x 11 (currently has a queen size bed)*
c. *Bedroom 3: 13 x 9 (currently has a full size bed)*
d. *Bedroom 4: 12 x 13 (currently has a king size bed)*
e. *Bedroom 5: 6 x 8 (this currently is a large walk-in closet that has 2 egress windows in it and a separate entrance to the hallway that the applicant would like to convert into a room with a dresser and twin bed).*
    i. *Section 425.810 of the City Code states that "Rooms used exclusively for sleeping purposes shall have the following minimum superficial floor area, seventy (70) square feet for one person, ninety (90) square feet for two (2) persons and the required superficial floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2)." Therefore, this space is ineligible to be used as a rental bedroom.*
f. *The house has 3,000 finished sq. ft. with a fully stocked kitchen, dining room, living room, wi-fi, theatre room, and laundry room.*

iii. A to-scale site plan which shows locations and dimensions of property lines, the dwelling unit intended for licensing, accessory structures, parking areas and shoreland recreational facilities.
    1. *A GIS map of the property has been included as an additional document.*

iv. A plan for garbage disposal by the permit holder.
    1. *The applicant indicates she maintains a contract with Waste Partners for weekly pickup of trash removal and that she will bring the garbage to the street on Wednesday night for pickup on Thursday morning.*

v. A pet policy.
    1. *The applicant indicates there will be a NO PET policy.*

d. The permit holder shall post emergency contact information (police, fire, hospital) and show renters the location of fire extinguishers in the short term rental unit.
    i. *The applicant will verify with City staff that emergency contact information and the location of fire extinguishers has been posted for renters prior to occupancy.*

e. A permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder shall notify all property owners within 100' of the property boundary within 10 days of a change in the managing agent or local contact's contact information.

i. *The proposed zoning code will require that the managing agent's contact information is accessible to the public at all times on the City of Brainerd website.*

f. A permit holder must disclose in writing to their renters the following information:
    i. The managing agent or local contact's name, address, and phone number.
        1. *The applicant indicates that this information would be provided through the booking website.*
    ii. The maximum number of guests allowed at the property
        1. *The applicant indicates that 9 total guests would be the maximum number of guests allowed.*
    iii. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked.
        1. *The front driveway along with a 36' x 36' rear parking area allows for a total of 6 off street parking spaces at the property.*
    iv. Property rules related to use of exterior features of the property, such as decks, patios, grills, pools, hot tubs, saunas, recreational fires, and other outdoor recreational facilities.
        1. *The applicant indicates guests would have access to the fenced in back yard with green space, perennials, heated in ground swimming pool, and a front porch with gas firepit. All rules would be provided through the booking website.*
    v. Applicable sections of city ordinances governing noise, parks, parking and pets.
        1. *The proposed zoning code will require the applicant to inform their guests of city ordinances. City ordinances pertaining to vehicles, garbage, noise, and pets have been included in section 515-3-34 Short Term Rentals.*

g. The occupancy of a short term rental shall be limited to not more than 2 people per bedroom.
    i. *The proposed zoning code allows for a maximum of 3 occupants per bedroom.*
    ii. *Per Section 425.810, the maximum occupancy per proposed bedroom under the proposed zoning code would be:*
        1. *Bedroom 1 – 3 persons*
        2. *Bedroom 2 – 2 persons*
        3. *Bedroom 3 – 2 persons*
        4. *Bedroom 4 – 3 persons*

h. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the Building Department, whichever is stricter.
    i. *The rooms used for sleeping have been inspected by the housing inspector for occupancy, egress, and smoke detectors as part of the rental inspection process. The home was inspected for a rental license on 12/21/21 and passed all building and rental code requirements.*

i. The short term rental shall be connected to city sewer and water.

    i. *The house is connected to city sewar and water.*

j. A short term rental shall have a full bathroom (sink, toilet and tub or shower).
    i. *The house has 3 bathrooms.*

k. Additional occupancy by use of recreational vehicles, tents, accessory structures or fish houses is not permitted.
    i. *The applicant is not proposing the use of any recreational vehicles, tents, accessory structure, or fish houses for occupancy.*

l. The permit holder shall provide a physical visual demarcation of the property lines.
    i. *This will not be a requirement in the proposed zoning code. The property's backyard is fully fenced in.*

m. The permit holder shall keep a report, detailing use of the short term rental by recording the full name, address, phone number and vehicle license number of guests using the rental. A copy of the report shall be provided to the planning department upon request.

n. A short term rental shall be a licensed rental unit by the City and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to the City of Brainerd's rental housing maintenance code. Each unit shall be inspected annually by the rental housing inspector and the fire marshall.
    i. *The property was licensed as a rental on 12/21/2021 with license number CR2021-01089.*

o. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety and safety of renters. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.

p. A permit holder must post their permit number on all print, poster or web advertisements.

q. A permit holder must apply for and be granted state and local sales tax numbers, including hotel and motel use sales tax.
    i. *The applicant has contacted her CPA to handle the state/ local tax requirements and provide guidance.*

r. In addition to an interim use permit, short term rentals rented for less than 7 days are considered a hotel and are required to have a Minnesota department of health license.
    i. *The proposed zoning code requires the applicant to contact the Minnesota Department of Health about lodging license requirements.*

As of this writing, no one has contacted the Community Development Department with concerns or objections to the Interim Use Permit.

<u>Staff Opinion</u>

Staff recommends approval of this Interim Use Permit conditional on reinspection by the Building Inspector and Fire Marshall.

City Planning Department
City Hall – 501 Laurel Street
Brainerd, MN 56401
218/828-2309/Fax 218-828-2316
www.ci.brainerd.mn.us

Receipt # _____
Check # _____
Date paid: _____

INTERIM USE PERMIT

Application Form (residential - $250.00 / commercial - $500.00 +$500.00 escrow deposit)
(This form must be filled out completely before your application will be accepted)

Property Address for this *Interim Use Permit*: 704 Fir Street Brainerd, MN 56401

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use Permit to allow short term rentals (via AirBnB/VRBO)

_____

_____

_____ *at the property address listed above until the date of* _____

Legal Description (attach, if lengthy): Lot _____ Block _____ Addition _____

_____

_____

Property Owner: Jeffrey & Kelly Woodman

Address: 2431 Cottagewood Dr SW Nisswa, MN 56468
(Street) (City) (State) (Zip)

Contact Information #: 218-851-4425 (Home) _____ (Business)

_____ (Fax) Kelly@LakesAreaLiving.com (E-mail)

Applicant: (if different than Property Owner) _____

Address: _____
(Street) (City) (State) (Zip)

Contact Information #: _____ (Home) _____ (Business)

_____ (Fax) _____ (E-mail)

Contact Person: (if different than Property Owner) _____

Address: _____
(Street) (City) (State) (Zip)

Contact Information #: _____ (Home) _____ (Business)

_____ (Fax) _____ (E-mail)

This Interim Use Permit may be approved if sufficient facts are presented at the Planning Commission and City Council meetings to support a finding that <u>all</u> of the attached criteria for granting an Interim Use Permit have been met.

Obtaining this *Interim Use Permit* does not absolve the applicant from obtaining all other applicable permits, such as Building Permits, MnDOT access permits, etc.

I (We) certify that I (we) have submitted <u>all</u> the required information to apply for an Interim Use Permit and that the information is factual.

Signed by: Kelly M Woodman (Property Owner) **Date:** 2/25/22

Kelly M Woodman
(Property Owner-Please print Name)

_____ **Date:** _____
(Applicant-If different than owner)

_____
(Applicant - Please print name)

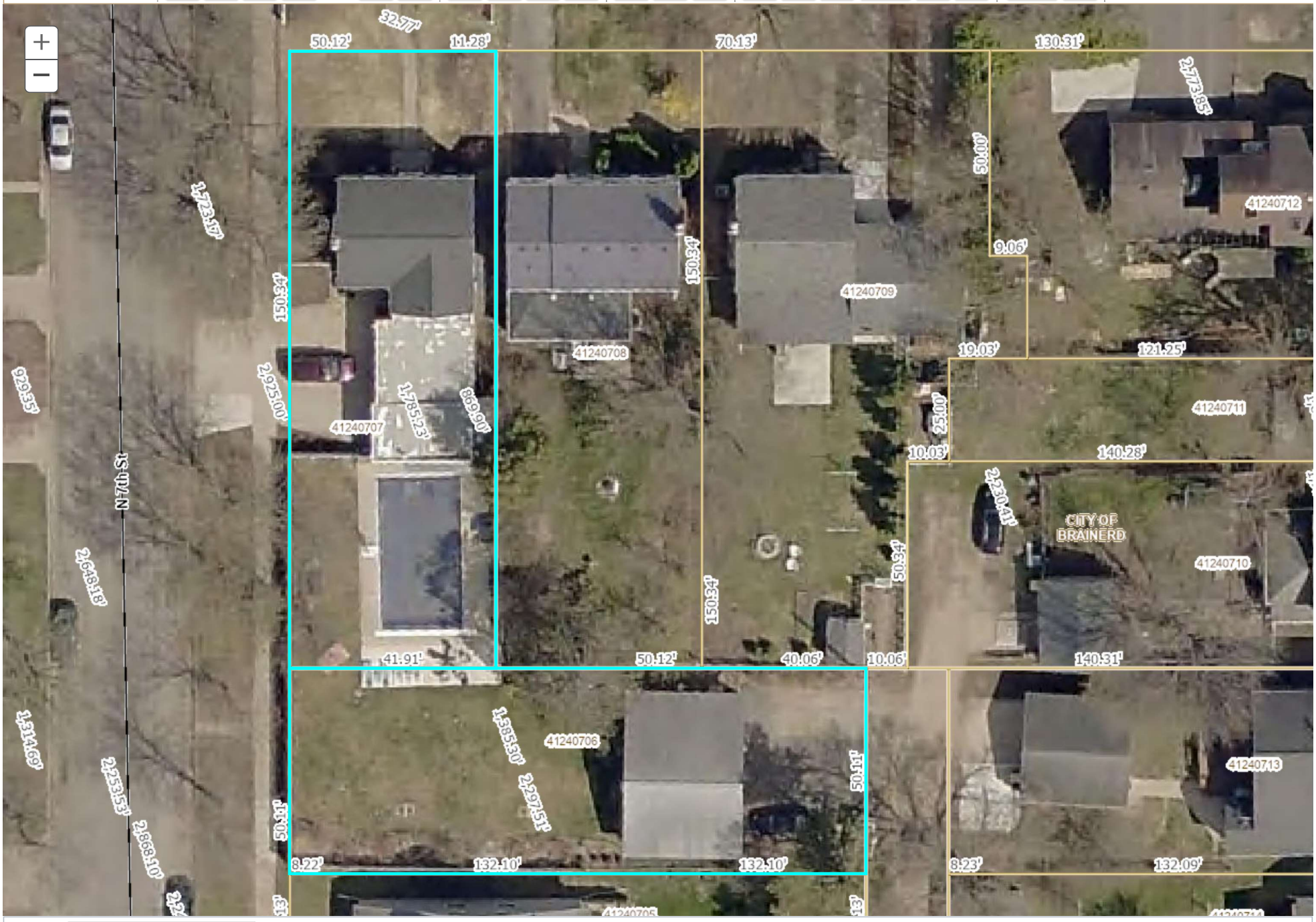
Interim Use Permit

Supporting Information

The City Council may approve an Interim Use Permit if all of the "Criteria for Review of Interim Use Permits" are met. In order to facilitate review of this application for an *Interim Use Permit,* the applicant must address each of the *"Criteria"*, referred to in Section 515-6-1 of the Zoning Ordinance.

1. **Public Health/Safety/Welfare**. The *Planning Commission* and the *City Council* shall review each application for the purpose of determining that each proposed use meets the following criteria referenced to in Section 6-14 and in addition, shall find adequate evidence that each use in its proposed location will address the following:
   (a) The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
   (b) The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.
   (c) The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
   (d) The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
   (e) The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
   (f) The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
   (g) The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.

(con't)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11.28'
70.13'
130.31'
2,773.85'
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1,723.17'
150.51'
41240709
41240708
19.03'
121.25'
929.35'
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869.90'
41240707
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2,297.51'
2,868.10'
8.22'
132.10'
132.10'
41240713
8.23'
132.09'
Scale 1: 300

2/25/2022

OWNERS:

Jeffrey and Kelly Woodman

2431 Cottagewood Dr SW Nisswa, MN 56431

Jeff cell: 218-851-7804 / email: woodys1168@gmail.com

Kelly cell: 218-851-4425 / email: kmwoodman18@gmail.com

Legal property address:

712 N 7th Street (PARCEL#41240706)

TOWN OF BRAINERD & FIRST ADDITION TO BRA	LOTS 19 AND 20 BLOCK 198

704 Fir Street (PARCEL#41240707) – MAILING ADDRESS

TOWN OF BRAINERD & FIRST ADDITION TO BRA	LOTS 17 AND 18 BLOCK 198

Zoning:

Market NBHD:	09_NRES - BRAINERD-N RESIDENTIAL
Class:	201 - 1A/4BB(1) RESIDENTIAL SINGLE UNIT

Interim Use Permit application information:

I, Kelly M Woodman; am applying for an interim use application for my property located at 704 Fir Street Brainerd, MN. In December my family and I moved out of the subject property that was used as our primary residence with intentions of renting it out. After several conversations and consideration of the need for an AirB&B type of rental in the city limits of Brainerd, the amenities of my property, the proximity to parks, shopping, dining, the Northern Pacific Center wedding venues, etc. I decided to move forward. Starting in June I would like to allow for nightly rentals (4 night minimum-28 night maximum) to guests. Primarily my clientele / marketing focus would be for wedding guests of bridal parties getting married at the NP center. I will not have any employees, my husband and I and our teenage boys will continue to maintain the property. We will not be serving any food or beverage. Only lodging provided. We are working on getting a website www.northsidenest.com created to take bookings/payment and confirm reservations which would include the necessary permit holder information that we need to convey to guests as outlined in the city ordinance.

Property Details/Parking

- 3000 finished square feet
- 5 sleeping rooms with egress and smoke detectors with 5 beds allowing for 9 total guests
- 3 bathrooms (connected to city sewer/water)
- Fully stocked kitchen/dining/living/wi-fi/theatre room/laundry
- Front porch with gas firepit
- Front yard with perennials and irrigation
- Fenced in back yard with green space, perennials, irrigation, heated in ground swimming pool and access to 3 car detached garage and 36 x 36 parking area
- Front driveway has 3 car parking area for a total of 6 off street parking spaces at the property.

Mail/Deliveries

No mail/deliveries will go to this address as we have forwarded and changed or address to our primary residence.

Trash

We have and will maintain our contract with Waste Partners for weekly pickup of trash removal.

Access

We will have a monitored secure key access at the property that will allow us to track anyone that accesses the property at any time. We have and will continue to do daily drive by checks on the property

Pets

We will have a NO PET policy

Emergency Info

Per our current rental license we have posted our contact information, neighbors contact information, location of fire extinguishers and local emergency medical information in the kitchen area.

Section 6: A-E, Section 11 , 13, 16

All of this information will be added to my website once operational and sent with confirmation when guests book their reservation. We can also have this information posted at the property in whatever format is necessary.

I have contacted my CPA (Chris Clasen) to handle the state/local tax requirements and provide guidance.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Kelly Woodman has submitted a request for an Interim Use Permit to operate a short-term rental at 704 Fir St. The property included in this application is described as:

LOTS 17 AND 18 BLOCK 198 TOWN OF BRAINERD & FIRST ADDITION TO BRA
P.I.N. 41240707
Section 24, Township 45, Range 31

The property is zoned R-1 (Single Family Residential District), and Zoning Ordinance Section 515-54-4 (Single Family Residential District) Interim Uses permits the operation of short term rentals provided that they meet the required provisions as listed under 54-4.C. Information on the proposed short-term rental is on file for review at the Community Development Department.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, March 16, 2022 in the Council Chambers at Brainerd City Hall, 501 Laurel Street, to consider the Interim Use Permit request.

Any individual needing special accommodations or would like more information about this request, please call (218) 828-2309.

Dated this 2nd day of March 2022

David C. Chanski, MPA
Community Development Director

Publication Date: March 6th, 2022