



## **PLANNING COMMISSION AGENDA**

City of Brainerd, Minnesota  
City Hall, 501 Laurel Street, Council Chambers  
Wednesday, December 18, 2024 @ 6:00 PM

The public is invited to attend these meetings in person  
Attend by Phone: 1-844-992-4726 Meeting Access Code: 2488-667-6427

**Meetings are broadcast on CTC ch 8, Charter ch 181, YouTube, AppleTV, Roku, and Amazon FireTV**

1. **Call To Order**

2. **Roll Call**

\_\_\_ M. Duval \_\_\_ J. Norwood \_\_\_ D. Peterson \_\_\_ T. Stenglein \_\_\_ D. Gorham \_\_\_ J. Grecula \_\_\_  
vacant

3. **Pledge of Allegiance**

4. **Oath of Office**

5. **Approval Of Agenda - Voice Vote**

6. **Approval Of Minutes**

A. **Draft Minutes of the November 20th, 2024 Meeting**

7. **Unfinished Business**

A. **Consider Proposed Building Design Standards Ordinance**

8. **New Business**

A. **Consider Variance from Fence Height Requirements at 303 J St NE**

B. **Review Proposed Crypto Mining Ordinance**

9. **Public Forum**

Time allocated for citizens to bring matters not on the agenda to the attention of the Commission -  
Time limits may be imposed

10. **Staff Reports**

(Verbal: Any Updates since Packet)

11. **Commission Member Reports**

12. **Adjourn**

Visit the City's Website at [www.ci.brainerd.mn.us](http://www.ci.brainerd.mn.us)

#### MISSION

*"Provide high quality, cost effective public services and leadership in creating a sustainable city"*

**PLANNING COMMISSION**  
Wednesday, November 20, 2024  
6:00 pm

**#1     Call to Order**

Planning Commission Chair Gorham 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 Duval, Norwood, Stenglein, and Gorham. Noted absent was Commissioner Peterson. Also noted as present was Community Development Director Kramvik.

**#3     Pledge of Allegiance**

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

**#4     Approval of Agenda**

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND NORWOOD, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

**#5     Approval of Minutes**

MOVED AND SECONDED BY COMMISSIONERS NORWOOD AND STENGLEIN, DULY CARRIED, TO APPROVE THE MINUTES FROM THE OCTOBER 16, 2024 REGULAR MEETING AND THE OCTOBER 21, 2024 SPECIAL MEETING.

**#6     New Business**

**6a.     Consider Interim Use Permit Renewal for a Short-Term Rental at 502 Juniper St.**

Community Development Director Kramvik explained this is a renewal of the existing short-term rental that has been operating for a little over a year. There have been no complaints or problems at the property.

The Chair opened the public hearing at 6:03 pm.

The Chair recognized Michael Fish, property manager, who explained the process has been going very well with no issues.

The Chair closed the public hearing at 6:03 pm.

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND STENGLEIN, DULY CARRIED, TO RECOMMEND APPROVAL OF THE INTERIM USE PERMIT TO OPERATE A SHORT-TERM RENTAL AT 502 JUNIPER ST AS PRESENTED.

**6b. Consider Interim Use Permit Renewal for a Short-Term Rental at 524 N. 8<sup>th</sup> St.**

Community Development Director Kramvik stated this is a renewal of the existing short-term rental that has been operating for almost a year. There have been no issues or concerns regarding the property. The only change is the occupancy should be advertised as a maximum of four guests from the five listed due to the room sizes.

The Chair opened the public hearing at 6:06 pm.

The Chair recognized Nita Gross, Nisswa, who is the property owner. She explained her property manager does a very good job with the guests that book a stay. There have not been more than four guests at a time since they started.

The Chair closed the public hearing at 6:07 pm.

MOVED AND SECONDED BY COMMISSIONERS NORWOOD AND STENGLEIN, DULY CARRIED, TO RECOMMEND APPROVAL OF THE INTERIM USE PERMIT TO OPERATE A SHORT-TERM RENTAL AT 524 N. 8<sup>TH</sup> ST AS PRESENTED.

**6c. Consider Interim Use Permit Renewal for a Short-Term Rental at 203 Hawkins Dr.**

Community Development Director Kramvik indicated this property has been operating a short-term rental for over a year and has had no problems or complaints.

The Chair opened the public hearing at 6:09 pm.

No one came forward.

The Chair closed the public hearing at 6:09 pm.

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND STENGLEIN, DULY CARRIED, TO RECOMMEND APPROVAL OF THE INTERIM USE PERMIT TO OPERATE A SHORT-TERM RENTAL AT 203 HAWKINS DR AS PRESENTED.

**6d. Consider Conditional Use Permit for a Brew Pub at 214 S. 8<sup>th</sup> St.**

Community Development Director Kramvik gave a review of the application to operate a brew pub at The Last Turn Saloon. The operator of Ya Sure Kombucha will be operating the brew pub at the restaurant, and he has experience with the equipment.

The Chair opened the public hearing at 6:13 pm.

No one came forward.

The Chair closed the public hearing at 6:13 pm.

Commissioners asked about mitigating odors and what are the steps to take regarding any complaints. Staff indicated that it is a part of the conditions, and the permit may be revoked if not taken care of.

MOVED AND SECONDED BY COMMISSIONERS NORWOOD AND STENGLEIN, DULY CARRIED, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT TO OPERATE A BREW PUB AT 214 S. 8<sup>TH</sup> ST. AS PRESENTED.

**6e. Consider Conditional Use Permit and Variance for a Mixed-Use Building at 722 Laurel St.**

Community Development Director Kramvik indicated the property owner applied for a conditional use permit for a mixed-use building at 722 Laurel St., which is currently the Bob & Fran's Factory Direct store that is going out of business. He is also requesting a variance from the parking requirements in the Main Street Zoning District.

The Chair opened the public hearing at 6:24 pm.

The Chair recognized Dave Pueringer, the property owner, who attended the meeting virtually. He gave a brief explanation of the proposed project and the intent to reuse a 20,000 square foot building.

The Chair recognized Andy Larson, chairman of the BN Credit Union, who stated although the credit union is not opposed to the project, they do have some concerns. There are issues with parking, occupancy of apartments, tenants having grills and patio furniture in the alley and having dogs using the green space they maintain.

Dave Pueringer addressed the concerns by explaining that pets, grills and alley use are not allowed by their downtown tenants. He said parking concerns can be addressed as they arise, and he is willing to secure some leased alley parking spaces as they become available.

The Commissioners asked questions of the applicant and discussed.

The Chair closed the public hearing at 6:38 pm.

MOVED AND SECONDED BY COMMISSIONERS STENGLEIN AND NORWOOD, DULY CARRIED, TO RECOMMEND APPROVAL OF THE CONDITIONAL USE PERMIT FOR A MIXED-USE BUILDING AT 722 LAUREL ST. AS PRESENTED.

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND STENGLEIN, DULY CARRIED, TO RECOMMEND APPROVAL OF THE VARIANCE FROM THE PARKING REQUIREMENTS FOR A MIXED-USE BUILDING AT 722 LAUREL ST. AS PRESENTED, ADDING THE CONDITIONS OF SECURING FOUR LEASED ALLEY PARKING SPACES AS THEY BECOME AVAILABLE AND RESTRICT PARKING IN PRIVATE LOTS.

All topics will be heard for approval or denial at the December 2<sup>nd</sup>, 2024 City Council meeting.

**#7 Unfinished Business**

**7a. Review Proposed Design Standards Ordinance**

Community Development Director Kramvik gave a brief review of the proposed ordinance based on the input of the Commission at the previous meeting. He indicated one item that was

not discussed that he would like input on is the standing seam metal roof requirement on a single-family home.

MOVED AND SECONDED BY COMMISSIONERS NORWOOD AND STENGLEIN TO REQUIRE STANDING SEAM METAL ROOFING ON SINGLE FAMILY HOMES AND FOR ACCESSORY STRUCTURES UNDER 200 SQUARE FEET.

Members Norwood and Stenglen voted “aye”. Members Gorham and Duval voted “nay”. The Chair declared the motion tied and failed.

MOVED AND SECONDED BY COMMISSONERS STENGLEIN AND DUVAL, DULY CARRIED, TO REQUIRE STANDING SEAM METAL ROOFING ON SINGLE FAMILY HOMES AND ACCESSORY STRUCTURES OVER 200 SQUARE FEET BUT ALLOW EXPOSED FASTENERS ON ACCESSORY STRUCTURES UNDER 200 SQUARE FEET.

#### **#8     Public Forum**

The Chair opened the public forum at 7:00 pm.

No one came forward.

The Chair closed the public forum at 7:01 pm.

#### **#9     Staff Reports**

Community Development Director Kramvik made the following updates:

- He gave a presentation at the Morning Rotary meeting regarding housing and economic development in Brainerd. Discussion took place on ADU's.
- Next Planning Commission meeting will include a discussion on a crypto mining ordinance.
- The downtown business window walk, and City Hall tree lighting ceremony will take place on Saturday, November 30<sup>th</sup>.

#### **#10    Commission Member Report**

Commissioner Norwood would also like the topic of data hosting discussed with the crypto mining ordinance. He also asked the Commissioners to look into the website SocialCapital.org for how socioeconomics connect to planning.

Commissioner Gorham asked if anyone had applied to fill the vacancies. Community Development Director Kramvik indicated one person has applied and will go to the City Council for an appointment.

#### **#11    Adjournment**

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND NORWOOD, DULY CARRIED, TO ADJORN AT 7:08 PM.

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Don Gorham, Planning Commission Chair

# MEMO



**TO:** Planning Commission

**FROM:** James Kramvik, Community Development Director

**DATE:** December 18<sup>th</sup>, 2024

**RE:** Review Proposed Design Standards Ordinance

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## INTRODUCTION

At the November 20<sup>th</sup> Planning Commission meeting, the Commission performed a final review of the proposed design standards ordinance. In addition to the final review, the Commission discussed metal roofs on single-family homes and on accessory structures under 200 SQFT. It was determined that single-family homes should only allow standing seam metal roofs and that accessory structures under 200 SQFT may have metal roofs with exposed fasteners. Staff have amended the proposed ordinance to reflect these changes.

Highlights of the proposed changes include:

1. Adjust lot sizes and lot frontage requirements in the CN-1, CN-2, TN-1, TN-2 Zoning Districts
2. In the TN-1 and TN-2 Zoning Districts, if the garage is front loaded, it must be inline or setback behind the façade of principal structure.
3. In the CN-1 and CN-2 Zoning Districts, if the garage is front loaded, it must extend no further than 2' beyond the façade into the front yard or side yard (corner).
4. Increased façade standards for 1–4-unit buildings.
5. Single-family homes should only allow standing seam metal roofs and the accessory structures under 200 SQFT may have metal roofs with exposed fasteners.
6. Allowing larger accessory structures in the General Industrial Zoning District.
7. Allow 85% metal siding on facades in the General Industrial Zoning District.
8. Permit duplex dwellings in the Rural Living 2 Zoning District.
9. Permit accessory dwelling units on rental properties.
10. The conversion of a single-family home into a multi-family home requires a CUP.
11. Create more visual interest in multi-family homes.
12. Allow mixed-use development in the Commercial Corridor District, similar to the Mainstreet District which prohibits ground floor residential units.

## STAFF RECOMMENDATION

Staff recommend conducting the public hearing and recommend approval of the proposed ordinance.

**ORDINANCE  
NO. 15XX**

**AN ORDINANCE AMENDING SECTIONS 515-2-4 RURAL LIVING ZONING DISTRICTS, 515-2-6 CONTEMPORARY NEIGHBORHOOD 1, 515-2-7 CONTEMPORARY NEIGHBORHOOD 2, 515-2-8 TRADITIONAL NEIGHBORHOOD 1, 515-2-9 TRADITIONAL NEIGHBORHOOD 2, 515-2-14 COMMERCIAL CORRIDOR, 515-2-16 GENERAL INDUSTRIAL, AND 515-4 GENERAL BUILDING, DEVELOPMENT AND DESIGN STANDARDS OF THE ZONING CODE AND CITY CODE ARTICLE III RENTAL DWELLING LICENSES – SECTION 425.3002.**

WHEREAS, a public hearing was held by the Planning Commission as required by the Zoning Code, on December 18, 2024.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Brainerd, Minnesota, as follows:

SECTION ONE: The purpose of this ordinance is to promote higher density dwelling units within the City while emphasizing the physical characteristics of buildings, including their height, setbacks, facade design, and relationship to the street and existing neighborhoods.

SECTION TWO: RL-1 and RL-2 Dimensional Standards – Density, Lot Size, Coverage and Height Standards - Table 515-2-4.1 is hereby amended as indicated, with the following added language underlined and deleted language struck out:

| Coverage and Height Standards |                                                                      |                                                                       |
|-------------------------------|----------------------------------------------------------------------|-----------------------------------------------------------------------|
|                               | Principal structure height/accessory (maximum) See Section [515-4-3] | 35'                                                                   |
|                               | <del>Accessory structure height (maximum)</del>                      | <del>Up to 35' but may not exceed height of principal structure</del> |

SECTION THREE: Figure 515-2-6.1. CN-1 Density and Lot Dimensional Standards Diagram shall be amended to reflect changes in this Section. CN-1 Dimensional Standards – Density, Lot Size, Coverage and Height Standards - Table 515-2-6.1 is hereby amended as indicated, with the following added language underlined and deleted language struck out:

| Lot Dimensions  |                                     |                                                                                                              |
|-----------------|-------------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>A</b>        | Lot Size (range)<br>Density (range) | 10,000 SF – 21,780 SF <del>(21,780+ SF requires CUP)</del><br>3 – 5 DU/AC                                    |
| <b>C</b>        | Lot Frontage on All Roads (range)   | <del>75'-70'-90'</del> <u>100' (100'+ requires CUP)</u>                                                      |
| Other Standards |                                     |                                                                                                              |
| <b>K</b>        | Garage                              | <del>Must be setback behind façade of principal structure a minimum of 5'</del> <u>If front loaded, must</u> |

|  |  |                                                                                               |
|--|--|-----------------------------------------------------------------------------------------------|
|  |  | <u>extend no further than 2' beyond the façade into the front yard or side yard (corner).</u> |
|--|--|-----------------------------------------------------------------------------------------------|

SECTION FOUR: Figure 515-2-7.1. CN-2 Density and Lot Dimensional Standards Diagram shall be amended to reflect changes in this Section. CN-2 Zoning District Dimensional Standards – Density, Lot Size, Coverage and Height Standards - Table 515-2-7.1 is hereby amended as indicated, with the following added language underlined and deleted language struck out:

| Lot Dimensions                                             |                                     |                                                                                                                                                                                                     |
|------------------------------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b>                                                   | Lot Size (range)<br>Density (range) | <del>Up to 15,000 SF</del> <u>5,000 SF – 15,000 SF (15,000+ SF requires CUP)</u><br>4 – 12 DU/AC                                                                                                    |
| <b>C</b>                                                   | Lot Frontage on All Roads (range)   | <del>65' – 80' maximum</del> <u>50' – 80' (80'+ requires CUP)</u>                                                                                                                                   |
| Principal Building & Attached Accessory Building Standards |                                     |                                                                                                                                                                                                     |
| <b>E</b>                                                   | Side Yard Setback (minimum)         | <del>10' - 5'</del> <u>20'</u> corner                                                                                                                                                               |
| Other Standards                                            |                                     |                                                                                                                                                                                                     |
| <b>K</b>                                                   | Garage                              | <del>Must be setback behind façade of principal structure a minimum of 5'</del> <u>If front loaded, must extend no further than 2' beyond the façade into the front yard or side yard (corner).</u> |

SECTION FIVE: Figure 515-2-8.1. TN-1 Density and Lot Dimensional Standards Diagram shall be amended to reflect changes in this Section. TN-1 Dimensional Standards – Density, Lot Size, Coverage and Height Standards - Table 515-2-8.1 is hereby amended as indicated, with the following added language underlined and deleted language struck out:

| Lot Dimensions  |                                     |                                                                                                                     |
|-----------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| <b>A</b>        | Lot Size (range)<br>Density (range) | <del>5,000 - 7,500</del> <u>1,500 SF (10,500+ SF requires CUP)</u><br>4 – 9 DU/AC                                   |
| <b>C</b>        | Lot Frontage on All Roads (range)   | <del>50' - 60</del> <u>75' (75'+ requires CUP)</u>                                                                  |
| Other Standards |                                     |                                                                                                                     |
| <b>K</b>        | Garage                              | If front loaded, must be <u>in line or</u> setback behind façade of principal structure. <del>a minimum of 5'</del> |

SECTION SIX: Figure 515-2-9.1. TN-2 Density and Lot Dimensional Standards Diagram shall be amended to reflect changes in this Section. TN-2 Dimensional Standards – Density, Lot Size, Coverage and Height Standards - Table 515-2-9.1 is hereby amended as indicated, with the following added language underlined and deleted language struck out:

| Lot Dimensions |                                       |                                                                                                        |
|----------------|---------------------------------------|--------------------------------------------------------------------------------------------------------|
| <b>A</b>       | Lot Size (minimum)<br>Density (range) | <del>4,000 – 25,000</del> <u>SF (25,000+ SF requires CUP)</u><br>9 – 20 DU/AC (20+ DU/AC requires CUP) |

|                        |                                     |                                                                                                                     |
|------------------------|-------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| <b>C</b>               | Lot Frontage on All Roads (minimum) | 45'                                                                                                                 |
| <b>Other Standards</b> |                                     |                                                                                                                     |
| <b>K</b>               | Garage                              | If front loaded, must be <u>in line or</u> setback behind façade of principal structure, <del>a minimum of 5'</del> |

SECTION SEVEN: CC Zoning District Dimensional Standards – Density, Lot Size, Coverage and Height Standards - Table 515-2-14.1 is hereby amended as indicated, with the following deleted language struck out:

| <b>Coverage <del>, Glazing,</del> and Height Standards</b> |                                                           |                |
|------------------------------------------------------------|-----------------------------------------------------------|----------------|
|                                                            | <del>Principal Façade Glazing, Avenue (minimum)</del>     | <del>65%</del> |
|                                                            | <del>Secondary Façade Glazing, Washington (minimum)</del> | <del>50%</del> |

SECTION EIGHT: General Industrial Dimensional Standards – Density, Lot Size, Coverage and Height Standards – Table 515-2-16.1 is hereby amended as indicated, with the following added language underlined and deleted language struck out:

| <b>Accessory Building Standards</b> |                                                              |
|-------------------------------------|--------------------------------------------------------------|
| Size (maximum)                      | Not to exceed <del>30</del> <u>100</u> % of gross floor area |

SECTION NINE: Building Design Standards – Section 515-4-2.A Single-Family Detached Residential Structure Standards is hereby amended as indicated, with the following added language underlined and deleted language struck out:

**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:

~~c. Building orientation on lots shall match the predominant orientation of other buildings along the block front. Building primary entrance shall be orientated towards a public street.~~

g. Front façade shall incorporate two design elements for one story structures and three design elements for two story structures. The following design elements may be used in any combination to satisfy the requirements:

- i. porch (enclosed or non-enclosed)
- ii. covered entry
- iii. window shutters
- iv. alternative siding or color patterns

v. brick/ stone

vi. other design elements may be approved by the Zoning Administrator such as a chimney, roof design and angles, window patterns, dormers, corbels, etc...

h. Metal roofs are allowed provided they are constructed with standing seams and concealed fasteners.

SECTION TEN: Building Design Standards – Section 515-4-2.B Attached Single-Family Residential Structures is hereby amended as indicated, with the following added language underlined and deleted language struck out:

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

2. Attached single-family dwelling units shall have a minimum finished habitable floor area of ~~five~~-hundred (500~~400~~) square feet.

4. Any conversion of an existing single-family detached residential structure into a duplex, triplex or 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 require a conditional use permit and comply with all standards of the Base Zoning District. ~~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.~~

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.

a. Building common entrance or unit entrances shall be orientated towards a public street.

b. Front façade shall incorporate two design elements for one story structures and three design elements for two story structures. The following design elements may be used in any combination to satisfy the requirements:

i. porch (enclosed or non-enclosed)

ii. covered entry

iii. window shutters

iv. alternative siding or color patterns

v. brick/ stone

vi. other design elements may be approved by the Zoning Administrator such as a chimney, roof design and angles, window patterns, dormers, corbels, etc...

SECTION ELEVEN: Building Design Standards – Section 515-4-2.C Multi-family attached dwelling units is hereby amended as indicated, with the following added language underlined:

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

2. Exterior Building Materials. Multi-family dwelling units shall be designed to create visual interest through a variety of materials, colors, textures, installation direction, structural elements such as balconies, porches, and wall patterns, or other characteristics that create articulation either between units or floors.

SECTION TWELVE: Building Design Standards – Section 515-4-2.D Commercial Use Design Construction Standards is hereby amended as indicated, with the following added language underlined:

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

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

a. New buildings constructed in the CC, TN-2, TN-3, ME, GC, PSP, 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 unless allowed upon approval of a Conditional Use Permit.

i. Metal siding with exposed fasteners shall be prohibited.

6. Principal Façade Glazing. The following standards shall apply in the MS, TC, and CC Zoning District

a. A minimum of 75 percent of the front facade between two and eight feet above the sidewalk must be comprised of transparent, non-reflective windows into the commercial space. A minimum of 25 percent of the windows shall have views directly into and out of the ground floor occupied space.

SECTION THIRTEEN: Building Design Standards – Section 515-4-2.E Industrial Use Design Construction Standards is hereby amended as indicated, with the following added language underlined and deleted language struck out:

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

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-eighty-five~~ (5085) percent of street side building elevations combined.

b. Any structure in the Industrial District ~~within three hundred (300) feet of adjacent to~~ 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].

SECTION FOURTEEN: Accessory Buildings, Uses and Equipment – Section 515-4-6.C Design Standards is hereby amended as indicated, with the following added language underlined and deleted language struck out:

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, may be metal roofed, but shall have a pitched roof.

SECTION FIFTEEN: Accessory Buildings, Uses and Equipment – Section 515-4-6.E Industrial Accessory Building Use is hereby amended as indicated, with the following added language underlined and deleted language struck out:

E. Industrial Accessory Building Use.

1. Industrial accessory buildings shall not exceed ~~thirty-one hundred~~ (30100) percent of the gross floor space of the principal building and shall comply with the standards established in the Base Zoning District

SECTION SIXTEEN: Appendix A: Table of Uses.– Section 515-3 Allowed Uses is hereby amended as indicated, with the following added language underlined:

| Zoning District                                                  | Section Reference | RL-1 | RL-2     | CC       |
|------------------------------------------------------------------|-------------------|------|----------|----------|
| Residential Uses                                                 |                   |      |          |          |
| <u>Single Family Attached Dwelling Unit (2 Units)</u>            | <u>515-4-2</u>    |      | <u>P</u> |          |
| Mixed-Use Building, including residential uses not on main floor |                   |      |          | <u>C</u> |

SECTION SEVENTEEN: City Code Article III Rental Dwelling Licenses – Section 425.3002.e Applicability and Exceptions hereby amended as indicated, with the following added language underlined and deleted language struck out:

425.3002 Applicability and Exceptions

(e) Accessory Dwelling Units permitted by the Zoning Administrator shall only be licensed as rental dwellings if ~~the primary structure is owner occupied~~ and the accessory dwelling unit complies with all other conditions of this ordinance and those set forth in Sections 400 and 515 of the City Code.

SECTION EIGHTEEN: This ordinance shall take effect and be in full force one week from and after its publication.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
KELLY BEVANS  
President of the Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
DAVE BADEAUX  
Mayor

ATTEST: \_\_\_\_\_  
NICHOLAS W. BROYLES  
City Administrator

Published: One Time – \_\_\_\_\_

## NOTICE OF HEARING

Notice is hereby given that the City of Brainerd Planning Commission will be conducting a public hearing to consider a proposed ordinance amending Section 515-4-2 (Building Design Standards) of the Brainerd Zoning Code relating to building orientation, façade standards, single-family home conversion, industrial accessory structure size, and roofing standards. In addition, the proposed ordinance will allow rental properties to construct accessory dwelling units, allow mixed-use development in the Commercial Corridor District, permit duplexes in the Rural Living 2 District, and amend the Dimensional Standards of the Rural Living 1&2, Contemporary Neighborhood 1&2, Traditional Neighborhood 1&2, Commercial Corridor, and General Industrial Zoning Districts. A full copy of the proposed ordinance is available at City Hall in the Community Development Department.

A Public Hearing will be conducted by the Brainerd Planning Commission at 6:00 p.m. Wednesday, December 18<sup>th</sup>, 2024 in the Brainerd City Hall Council Chambers, 501 Laurel Street.

Any individual needing special accommodations or would like more information about this request, please call (218) 828-2307.

Dated this 3<sup>rd</sup> day of December, 2024

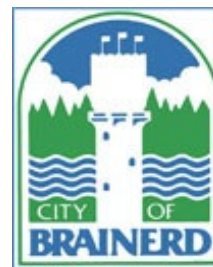


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James Kramvik  
Community Development Director

Publication Date: December 7<sup>th</sup>, 2024

# MEMO



**TO:** Planning Commission

**FROM:** James Kramvik, Community Development Director

**DATE:** December 18<sup>th</sup>, 2024

**RE:** Variance from Fence Height Setback Standards – 303 J St NE

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## REQUEST

**PUBLIC HEARING. Variance** at 303 J St NE to exceed the fence height on the side yard (corner) setback requirement.

Nichole Rees has submitted a variance request at 303 J St NE to exceed the fence height on the side yard (corner) setback requirement for 6 ft. high fences. The applicant is requesting the fence extend 59 ½” beyond the façade of the house, which is the required setback for 6 ft. high fences. The applicant states this variance is needed due to the existing sidewalk.

## CONTEXT

Parcel Number(s): 41190954

Zoning District: TN-1 (Traditional Neighborhood One) District

Property Area: 7,000 SQFT

Adjacent Uses: North: Residential  
East: Residential  
South: Residential  
West: Residential

Adjacent Zoning: North: TN-1 (Traditional Neighborhood 1) District  
East: TN-1 (Traditional Neighborhood 1) District  
South: TN-1 (Traditional Neighborhood 1) District  
West: TN-1 (Traditional Neighborhood 1) District

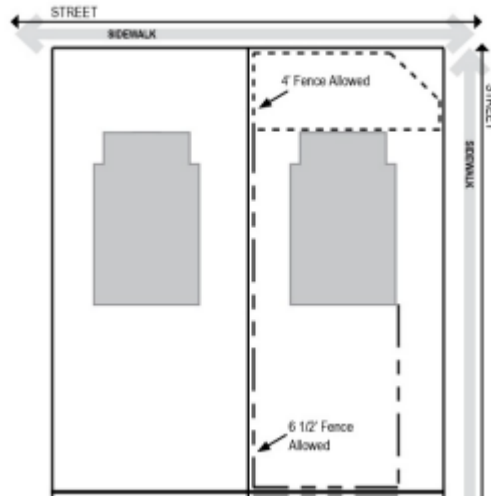
## AERIAL MAP



## FINDINGS OF FACT

1. The property owners erected a 6' wood privacy fence in the fall of 2022 without a permit from the Community Development Director. The following occurred:
  - a. 10/12/2022 – Staff sent a letter making the property owners aware that a permit is required for their fence.
  - b. 10/27/2022 – Staff received a fence permit application with the required fee; however, staff returned the check and sent a letter that the fence is non-compliant with zoning regulations as a six-foot fence cannot extend beyond the front façade of the primary structure.
  - c. Staff worked with the property owners throughout the summer of 2023 in an attempt to correct the fence. The property owners reached out to Council and Planning Commission members to request a change to the code. Staff were not directed to review the ordinance.
  - d. 09/09/2023 – Staff sent an order to correct letter and after 10 days began sending citations.
  - e. After receiving three citations, City Council directed staff to send a \$300 citation every month until the fence was corrected.
  - f. The property owners sent letters to staff that they were registered American National's and not a member of the corporation that is the United States and that our ordinances do not apply. The property owner received their proposed assessment letter and reached out to staff for a solution.
  - g. 11/20/2024 - The property owners submitted a fence permit after moving the six-foot fence. After moving the fence, it was still non-compliant.
  - h. The property owners applied for a variance for the fence location due to the existing sidewalk.

2. The property at 303 J St NE is located in a TN-1 (Traditional Neighborhood 1) District.
3. According to Section 515-4-11.F Fence Height. Fences may be located in any yard up to a height of four (4) feet 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).



4. The applicants have applied for a Variance from Section 515-4-11.F Fence Height due to an existing sidewalk that was not installed by them. The applicant is requesting the fence extend 59 ½" beyond the façade of the house into the side corner yard.
5. Section 515-5-4.B.3 – Variances shall only be permitted:
  - a. When they are in harmony with the general purposes and intent of the ordinance
    - i. The purpose of a TN-1 (Traditional Neighborhood 1) District is to “allow and preserve areas in the City of quiet neighborhoods of one and two family homes, free from other uses except those which are compatible with residents of such a district.”
      1. *Fences are an accessory use in the TN-1 (Traditional Neighborhood 1) as regulated by Section 515-4 of this Ordinance.*
  - b. When the variances are consistent with the Comprehensive Plan
    - i. Staff believes this variance request is supported by Goal 3 of Chapter 3 of the Comprehensive plan which states, “Ensure quality living conditions for all residents.”
      1. *Policy 2 under Goal 3 states, “Promote the maintenance and rehabilitation of all properties.”*
  - c. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.
    - i. *The location of an existing sidewalk would make it difficult to place the fence in line with the side corner façade as the fence would be placed on top of the walkway as pictured in the aerial map. An alternative fence location would make access much more difficult to the backyard.*

6. Section 515-5-4 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 Code.
- a. The plight of the landowner is due to circumstances unique to the property not created by the landowner
    - i. *The applicant is requesting a variance to allow a 6-foot fence due to an existing sidewalk that was not installed by the current landowner.*
  - b. The variance, if granted, will not alter the essential character of the locality.
    - i. *The fence location will not cover the façade of the single-family home, and 6-foot wood privacy fences are very common in the northeast Brainerd. The fence does not abut a neighboring property owner and does not extend to the alley. There is no impact on neighboring public or private properties.*
  - 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.
    - i. *The location of the fence was not dictated by economic considerations.*

At the time of this writing, no party has contacted the Community Development Department regarding the variance request.

#### **STAFF RECOMMENDATION**

Staff recommends approval of the variance request to allow the six-foot wood fence to extend 59 ½" beyond the façade of the house as currently constructed.



## Community Development Department

City Hall – 501 Laurel Street Brainerd, MN 56401

218-828-2307

www.ci.brainerd.mn.us

# CONDITIONAL USE/REZONING/VARIANCE APPLICATION

|                        | RESIDENTIAL                                    | COMMERCIAL                                                    |
|------------------------|------------------------------------------------|---------------------------------------------------------------|
| CONDITIONAL USE PERMIT | <input type="checkbox"/> (\$350.00)            | <input type="checkbox"/> (\$500.00 + \$500.00 escrow deposit) |
| REZONING               | <input type="checkbox"/> (\$350.00)            | <input type="checkbox"/> (\$500.00)                           |
| VARIANCE               | <input checked="" type="checkbox"/> (\$350.00) | <input type="checkbox"/> (\$500.00 + \$500.00 escrow deposit) |
| ZONING TEXT AMENDMENT  | <input type="checkbox"/> (\$250.00)            | <input type="checkbox"/> (\$400.00)                           |

PROPERTY ADDRESS: 303 5th NE

LEGAL DESCRIPTION: Lot(s): \_\_\_\_\_ Block: \_\_\_\_\_ Addition: \_\_\_\_\_  
(attach description if lengthy)

Property Owner Name: Nichole Rees

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Applicant Name: (If different than Property Owner) \_\_\_\_\_

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Description of Request: Exceed fence height on side corner yard  
59 1/2 inches from facade due to existing  
side walk.

Property Owner Signature

Dec 2 2024

Date

(Please print name)

Applicant Signature

Date

(Please print name)

(OVER)

**Frm:**  
**To:**  
**Subject:**  
**Date:**  
**Attachments:**

---

Regards,  
*James Kramvik*



**James Kramvik** | Community Development Director  
City of Brainerd | 501 Laurel Street Brainerd MN 56401  
218-454-3408 | [jkramvik@ci.brainerd.mn.us](mailto:jkramvik@ci.brainerd.mn.us)

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**From:** Nikki Rees  
**Sent:** Monday, December 2, 2024 1:39 PM  
**To:** James Kramvik <[jkramvik@ci.brainerd.mn.us](mailto:jkramvik@ci.brainerd.mn.us)>  
**Subject:** Fence

\*\*\* **Warning:** External sender, use extreme caution with attachments and links \*\*\*

Good afternoon,

Below are pictures of the fence to show the reason for the variance request. It is 59.5 inches from the facade of the house due to a preexisting sidewalk and also the entrance to my art shed is right off that side walk. I would not be able to access it otherwise. This has been an absolute nightmare that I desperately need resolved. We moved here 8 years ago and have been non stop harassed from a few months after we moved in. We have gotten rid of our pool and playground for our grandchildren to comply with your rules I truly hope that you can approve this and remove the fees. I have a disability hearing end of March I have not worked since Sept of 2022. My husband works 6 days a week and that barely covers living expenses. Our roof desperately needs to be replaced as well as all the windows and painting the outside needs to be done but I can not even attempt to do that with all these fees and just plain nonsense. We keep our lawn kept up and snow removal as well. We do not have trash laying about our yard we have complied with everything you asked the only reason we have fought so hard about the fence is because it is our sanctuary and with all the people that roam the streets and are constantly breaking into our vehicles which at this point we don't even report because it does no good. In our eyes making us move our fence because the city finds it more aesthetically pleasing and making half of our yard unusable that we still are required to maintain and pay taxes on is in violation of our rights and freedom and with all due respect that is a fact. Since we are barely surviving financially we have complied and would hope that this comes to an end of the constant harassment so that we may just live peacefully. If I had my choice I

would walk away from this house and town as I am so disgusted with the way people that pay your salaries are treated. Unfortunately I am not financially stable enough to leave or stay if these charges are not dropped...so that could potentially leave us homeless due to fighting for what we believe are our rights to privacy. I understand the need to keep the city clean and eye appealing but not to the violation of civil rights and something so ridiculous as a fence height and placement. I truly hope this is the end of this situation as it has been a huge stress on my mental health, my marriage and my finances.

As a side note when you make your weekly drive by please note the disassembled play ground will be moved as well as the 2 structures on the side of the garage as they were parts of the pool deck, storage of pool toys and a little playhouse for our grandkids. The red truck in the driveway is being sold so that will be gone as well. The structures we have listed for free but if no one comes to get them they will be taken apart and gotten rid of with winter now here it may be this spring I can not give an exact date but they will be gone.

Thank you  
Nikki



## NOTICE OF HEARING

### TO WHOM IT MAY CONCERN:

Notice is hereby given that Nichole Rees has submitted a variance request at 303 J St NE to exceed the fence height on the side yard (corner) setback requirement for 6 ft high fences. The applicant is requesting the fence extend 59 ½" beyond the façade of the house, which is the required setback for 6ft high fences. The applicant states this variance is needed due to the existing sidewalk. The property included in this application is described as:

*SCHWARTZ ADDITION TO THE CITY OF BRAINERD LOT 12 BLOCK 16  
P.I.N. 41190954  
Section 19, Township 045, Range 030*

The property is located in the TN-1 (Traditional Neighborhood 1) District. A copy of the proposed site plan 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, December 18<sup>th</sup>, 2024 in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider the variance request.

Any individual needing special accommodations or would like more information about this request, please call (218) 828-2307.

Dated this 3<sup>rd</sup> day of December, 2024



---

James Kramvik  
Community Development Director

Publication Date: December 7<sup>th</sup>, 2024

# MEMO



**TO:** Planning Commission

**FROM:** James Kramvik, Community Development Director

**DATE:** December 18<sup>th</sup>, 2024

**RE:** Data Center Ordinance Memo

---

## INTRODUCTION

At the October 7<sup>th</sup> City Council meeting, the Council directed staff to work on a crypto-mining ordinance after completion of the design standards ordinance. The Council directed staff to draft an ordinance due to continuing concerns in the community and surrounding areas regarding data centers (crypto-mining facilities) and similar uses. Data center regulations are necessary to protect the public health, safety, and welfare and avoid unintended impacts on resources and adjacent uses.

A potential data center ordinance should provide a list of requirements in the allowed use section of the zoning code, potentially make data centers a conditional use permit or interim use permit, and determine which zoning districts it should be allowed in.

## PROPOSED ORDINANCE

Staff have drafted a preliminary ordinance for data centers that regulate the location, noise, hazardous waste, screening, and duration. The proposed ordinance was influenced by ordinances from (Fairfax, Virginia), (Chandler, Arizona), and (Bloomington, Minnesota). Staff have attached the Fairfax and Chandler ordinance to the agenda item and have provided a link below to the Bloomington ordinance.

[Bloomington Data Center Regulations](#)

## ORDINANCE TIMELINE

1. December 18 – Planning Commission reviews preliminary ordinance and provides direction to staff.
2. January 15 – Staff amends preliminary ordinance as directed by the Planning Commission and the Commission performs a final review.
3. February 19 – The Planning Commission conducts a public hearing for a proposed data center ordinance.
4. March 3<sup>rd</sup> – City Council conducts the first reading.
5. March 17<sup>th</sup> – City Council conducts the final reading and holds a public hearing.
6. March 29<sup>th</sup> – If approved, ordinance goes into effect after the publication period.

*Note: The ordinance could be expedited by one month if there are not significant changes proposed by the Planning Commission at the December 18<sup>th</sup> meeting.*

**ORDINANCE  
NO. 15XX**

**AN ORDINANCE AMENDING SECTIONS 515-6-2 RULES AND DEFINITIONS, 515-3  
APPENDIX A TABLE OF USES, AND 515-3 ALLOWED USES OF THE ZONING  
CODE, RELATING TO DATA CENTERS**

WHEREAS, a public hearing was held by the Planning Commission as required by the Zoning Code, on \_\_\_\_\_, 2025

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Brainerd, Minnesota, as follows:

**SECTION ONE: Purpose**

The purpose of this ordinance is to create land use regulations and provide a definition for data centers to protect the public health, safety, and welfare and avoid unintended impacts on resources and adjacent uses.

**SECTION TWO: Section 515-6-2.C Definitions of Use, Standards and Terms are hereby amended as indicated, with the following added language underlined:**

**Data Center: A facility or portion of a facility housing networked computer systems and telecommunications equipment used for remote storage, processing, and distribution of data. Data centers include commercial cryptocurrency mining facilities, AI centers, cloud storage, and other similar uses.**

**SECTION THREE: Section 515-3 Appendix A Table of Uses (Industrial and Utility Uses) is hereby amended with the following new underlined language added to the table:**

| 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 |
|-------------------------------------------------------------------------|-------------------|------|------|----|------|------|------|------|------|----|----|----|----|----|----------|-----|---|
| <u>Data centers, AI centers, cloud storage, and other similar uses.</u> | <u>515-3-XX</u>   |      |      |    |      |      |      |      |      |    |    |    |    |    | <u>!</u> |     |   |

**SECTION FOUR: Section 515-3 Allowed Uses is hereby amended with the following new language underlined and shall be added to Section 515-3 in alphabetical order with all other required numerical sections to change in descending order:**

- A. Data Centers are not permitted to operate in the City of Brainerd unless explicitly approved by an Interim Use Permit. Data Centers that are ancillary to another primary use are permitted if they:**
- 1. Occupy no more than ten percent of the building footprint,**

2. Are used to serve the enterprise functions of the on-site property owner and are not used to lease data storage and processing services to third parties.
3. Are not housed in a separate stand-alone structure on the parcel.

**B. Location.** No data center may be located within 500 feet of any dwelling unit or property zoned GL, CN-1, CN-2, TN-1, TN-2 as measured in a straight line without regard to intervening structures or objects from the data center's site footprint or outdoor mechanical equipment.

**C. Noise.** Commercial grade mechanical equipment and similar noise sources, including but not limited to generators and air heating or cooling equipment, must comply with the requirements of MPCA noise rules (Minn. Rules Ch. 7030).

1. Prior to approval, a noise study must be submitted by a third-party engineer demonstrating to the City that the operation of the data center will comply with MPCA noise rules.
2. Upon operation of the Data Center, the operator must conduct an additional noise study, as measured at the property line of the nearest property to the Data Center or other noise sensitive use as reasonably determined by the Zoning Administrator.
3. Annually, during peak operation of the Data Center mechanical equipment, for five years after completion of the initial post-construction noise study, the Data Center operator must provide the results of the noise study, conducted by a third-party engineer, to the City within thirty days of the anniversary of the date on which the certificate of occupancy was issued by the City.
4. Unless backup generators are supplying backup electrical supply during a power outage, backup generators may operate between the hours of 9:00 am and 5:00 pm, Monday through Friday, excluding holidays.
5. Upon request by City staff after issuance of a certificate of occupancy and commencement of the operation of the Data Center, the operator of a Data Center must provide a liaison between the hours of 8:00 am and 10:00 pm CST each day to respond to complaints about noise emanating from the Data Center.

**D. Hazardous Waste.** Prior to approval, the developer shall submit a hazardous waste plan for review by the Community Development Department, Public Works Department, Public Utilities Department, and Fire Department.

**E. Screening.** Outdoor equipment that serves the data center, including but not limited to mechanical equipment and generators, must not be located closer to a property line along a public street than the principal building and must be fully screened from view of adjacent public rights-of-way and properties.

**F. Duration.** The duration of the Interim Use Permit granted to an applicant for a data center shall be five (5) years unless otherwise specified by City Council.

SECTION FIVE: This ordinance shall take effect and be in full force one week from and after its publication.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
KELLY BEVANS  
President of the Council

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2025

\_\_\_\_\_  
DAVE BADEAUX  
Mayor

ATTEST: \_\_\_\_\_  
NICHOLAS W. BROYLES  
City Administrator

Published: One Time – \_\_\_\_\_

## ORDINANCE NO. 5033

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING ARTICLES II. DEFINITIONS, AND XXII. ADDITIONAL HEIGHT AND AREA REGULATIONS OF CHAPTER 35 OF THE CITY CODE OF THE CITY OF CHANDLER, RELATING TO DATA CENTERS.

WHEREAS, in accordance with A.R.S. 9-462, the legislative body may adopt by ordinance, any change or amendment to the regulations and provisions as set forth in the Chandler Zoning Code; and

WHEREAS, this amendment, including the draft text, has been published as an 1/8-page display ad in a local newspaper with general circulation in the City of Chandler, giving fifteen (15) days' notice of time, date and place of public hearing; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission as required by the Zoning Code, on October 19, 2022.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. Section 35-200, of Article II. Definitions, of Chapter 35 of the City Code of the City of Chandler, is hereby amended by adding the following definition:

*Data Center:* A facility or portion of a facility housing networked computer systems and telecommunications equipment used for remote storage, processing, and distribution of data.

Section 2. Section 35-2214, of Article XXII. ADDITIONAL HEIGHT AND AREA REGULATIONS, of Chapter 35, of the City Code of the City of Chandler, is hereby added to read as follows:

**35-2214. Data Centers.**

- (1) Data Centers are not permitted to operate in the City of Chandler unless explicitly approved as part of a Planned Area Development zoning district. Data Centers that are ancillary to another primary use are permitted if they a) occupy no more than ten percent of the building footprint, b) are used to serve the enterprise functions of the on-site property owner and are not used to lease data storage and processing services to third parties, and c) are not housed in a separate stand-alone structure on the parcel.
- (2) Before a Data Center is constructed within a Planned Area Development zoning district, the property owner proposing to build a Data Center must comply with the following:

- a. The Data Center operator or property owner must notify residents within a half-mile radius of the parcel, including any affiliated homeowners' association operating within the half-mile radius, that the property owner intends to build and operate a Data Center on the property. The notice required in this section must be mailed to all postal addresses and homeowners' association addresses contained within a half-mile radius extending from the property line where the proposed Data Center will be built.
  - b. The Data Center operator must schedule and attend two neighborhood meetings with residents to describe the project and the proposed sound-mitigation aspects of the project design. Notice of the neighborhood meetings must be mailed to all residents and homeowners associations within a half-mile radius of the parcel. A representative of the developer or owner with decision-making authority on the design of the Data Center must attend the neighborhood meetings. The Data Center operator or property owner must also post a sign on the subject property, at least fifteen days before each neighborhood meeting, in accordance with design standards specified in Section 35-2601.1. The sign must be located along an arterial street or other high-visibility location as reasonably determined by the Zoning Administrator. The content of the sign shall (i) be consistent with the City's generally applicable sign guidelines for posting signs for notification of neighborhood meetings, (ii) include the applicant name and contact information, a brief description of the Data Center project, and the date, time, and location of the neighborhood meeting, and (iii) must be reviewed and approved by the Zoning Administrator before installation. The applicant must remove the sign at the conclusion of the citizen review process.
- (3) Upon request by City staff after issuance of a certificate of occupancy and commencement of the operation of the Data Center, the operator of a Data Center must provide an on-site neighborhood liaison between the hours of 8:00 am and 10:00 pm MST each day to respond to complaints about noise emanating from the Data Center.
  - (4) Before the first neighborhood meeting is held, the property owner proposing to build a Data Center must conduct a sound study performed by a third-party acoustic engineer to document baseline sound levels in the area of the proposed Data Center, including noise levels measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator. The property owner must provide a copy of the results of the study to the City before the first neighborhood meeting.
  - (5) The Data Center must be designed and built to incorporate sound mitigation methods sufficient to prevent the sound levels emanating from the Data Center (as determined by a third-party acoustic

engineer) from exceeding the ambient noise levels that were observed in the baseline study. Design specifications for such sound mitigation must be provided to the City before building permit approval.

- (6) Upon issuance of a certificate of occupancy or certificate of completion, whichever occurs first, the Data Center operator must conduct a noise study performed by a third-party acoustical engineer to document noise levels emanating from the Data Center measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator during peak operation of the Data Center mechanical equipment. The Data Center operator must also conduct an additional noise study, as measured at the property line of the nearest property to the Data Center property that is planned or zoned for residential land uses, or other noise sensitive use as reasonably determined by the Zoning Administrator, annually during peak operation of the Data Center mechanical equipment for five years after completion of the initial post-construction noise study. The Data Center operator must provide the results of the noise study to the City within thirty days of the anniversary of the date on which the certificate of occupancy or certificate of completion was issued by the City.
- (7) If the Data Center operator intends to use backup power generators on the parcel, the operator must maintain a public website announcing the times when the generators will be in operation. Any routine operation of the backup generators, including for testing purposes, must be announced on the website at least twenty-four hours in advance. The operator shall also notify the City of Chandler Communications and Public Affairs Department at least 24 hours in advance of a test. Unless the generators are supplying backup electrical supply during a power outage, backup generators may operate between the hours of 9:00 am and 5:00 pm, Monday through Friday, excluding holidays. Upon request by City staff, the Data Center operator must provide the address of the website where the notices required by this section are published.

Section 3. Providing for Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance, or any parts hereof, are hereby repealed.

Section 4. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this 5 day of December, 2022.

ATTEST:

Dana R. D'Long  
CITY CLERK

Kevin Hardie  
MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this 8 day of December, 2022.

ATTEST:

Dana R. D'Long  
CITY CLERK

Kevin Hardie  
MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 5033 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 8 day of December, 2022, and that a quorum was present thereat.

Dana R. D'Long  
CITY CLERK

APPROVED AS TO FORM:

Thom Allen  
CITY ATTORNEY

TA



Published in the Arizona Republic on: December 16, and December 23, 2022.

\*REFERENCED EXHIBIT(S) AND/OR ATTACHMENT(S) ON FILE AT THE CITY CLERK'S OFFICE.\*

**ZO 112.1-2024-9**  
**ZO 112.2-2024-8**

*ADOPTION OF AN AMENDMENT TO CHAPTERS 112.1 and 112.2*  
*(ZONING)*  
*OF THE 1976 CODE OF THE COUNTY OF*  
*FAIRFAX, VIRGINIA*

*At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, September 10, 2024, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapters 112.1 and 112.2 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following:*

*BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY,*  
*VIRGINIA:*

*Amend Chapters 112.1 and 112.2 (Zoning Ordinance), as follows*

In Table 4101.1, revise the permissions for Data Center from P to P or SE in I-4, I-5, I-6. In Table 4101.2, remove the permission for a data center in the PRC District, and change the PDC and PTC permissions to SE.

### 3. Use Table for Residential, Commercial, and Industrial Districts

**TABLE 4101.1: Use Table for Residential, Commercial, and Industrial Districts**

P = permitted; SE = special exception; SP = special permit; blank cell = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use; AP = allowed with approval of administrative permit

| Use                                                                                                                                                                                             | Residential Districts |     |     |     |     |     |     |     |     |      |      |      |      |       | Commercial Districts |     |         |         |     |     |     |     | Industrial Districts |     |         |         |         |         | Use-Specific Standards<br>NOTE: General Standards also apply |          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|-------|----------------------|-----|---------|---------|-----|-----|-----|-----|----------------------|-----|---------|---------|---------|---------|--------------------------------------------------------------|----------|
|                                                                                                                                                                                                 | R-A                   | R-C | R-E | R-1 | R-2 | R-3 | R-4 | R-5 | R-8 | R-12 | R-16 | R-20 | R-30 | R-MHP | C-1                  | C-2 | C-3     | C-4     | C-5 | C-6 | C-7 | C-8 | I-1                  | I-2 | I-3     | I-4     | I-5     | I-6     |                                                              |          |
| Industrial Uses                                                                                                                                                                                 |                       |     |     |     |     |     |     |     |     |      |      |      |      |       |                      |     |         |         |     |     |     |     |                      |     |         |         |         |         |                                                              |          |
| Freight Movement, Warehousing, and Wholesale Distribution: uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. |                       |     |     |     |     |     |     |     |     |      |      |      |      |       |                      |     |         |         |     |     |     |     |                      |     |         |         |         |         |                                                              |          |
| Data Center                                                                                                                                                                                     |                       |     |     |     |     |     |     |     |     |      |      |      |      |       |                      |     | P<br>SE | P<br>SE |     |     |     |     |                      |     | P<br>SE | P<br>SE | P<br>SE | P<br>SE | P<br>SE                                                      | 4102.6.A |

### 4. Use Table for Planned Development Districts

**TABLE 4101.2: Use Table for Planned Development Districts**

✓ = permitted if shown on final development plan/PRC development plan and PRC plan;

✓/SE = permitted if shown on final development plan/PRC development plan and PRC plan, or as special exception if not on plan(s)

SE = special exception; SP = special permit; blank cell = not allowed

A = allowed as accessory use only; A+ = permitted as an associated service use;

AP = allowed with approval of administrative permit

| Use                                                                                                                                                                                             | PDH       |           | PRC         |                                 |                |             |                              | PDC       |           | PRM       |           | PTC | PCC       |           | Use-Specific Standards<br>NOTE: General Standards also apply |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|-------------|---------------------------------|----------------|-------------|------------------------------|-----------|-----------|-----------|-----------|-----|-----------|-----------|--------------------------------------------------------------|
|                                                                                                                                                                                                 | Principal | Secondary | Residential | Neighborhood Convenience Center | Village Center | Town Center | Convention/Conference Center | Principal | Secondary | Principal | Secondary |     | Principal | Secondary |                                                              |
| Industrial Uses                                                                                                                                                                                 |           |           |             |                                 |                |             |                              |           |           |           |           |     |           |           |                                                              |
| Freight Movement, Warehousing, and Wholesale Distribution: uses involving the movement, storage, and distribution of goods. Goods are generally delivered to other firms or the final consumer. |           |           |             |                                 |                |             |                              |           |           |           |           |     |           |           |                                                              |
| Data Center                                                                                                                                                                                     |           |           |             |                                 |                |             |                              | SE        |           |           |           | SE  |           |           | 4102.6.A                                                     |

Revise the data center standards in subsection 4102.6.A as shown below.

## **6. Industrial Uses**

### **Freight Movement, Warehousing, and Wholesale Distribution**

#### **A. Data Center**

Standards applicable to all data centers:

- (1)** To provide visual screening and reduce noise levels, any equipment necessary for cooling, ventilating, or otherwise operating the facility, including power generators or other power supply equipment, must be fully enclosed, except where determined by the Director not to be mechanically feasible based on the manufacturer specifications. If the Director determines it is not mechanically feasible to fully enclose the equipment, it must be screened by a wall or similar barrier. In addition, any equipment as referenced above that is located on the ground and any accessory electrical substation must be screened from view from abutting lots and from rights-of-way by a visually solid wall or a building. This standard does not apply to solar panels.
- (2)** In the C-3 and C-4 Districts, the maximum building size is 40,000 square feet of gross floor area. However, this size limit may be exceeded with special exception approval in accordance with subsection 8100.3.
- (3)** In the I-2, I-3, and I-4 Districts, the maximum building size is 80,000 square feet of gross floor area. However, this size limit may be exceeded with special exception approval in accordance with subsection 8100.3.
- (4) Minimum Distance from Residential**
  - (a)** Any data center building must be located at least 200 feet from the lot line of an R district or a property developed with a residential use.
  - (b)** If located on the ground, any equipment for cooling, ventilating, or otherwise operating the facility, including any power generator or other power supply equipment, must be either:
    - 1.** Located at least 300 feet from the lot line of an R district or a property developed with a residential use; or
    - 2.** Separated from the lot line of an R district or a property developed with a residential use by the principal data center building.
  - (c)** Lesser distances may be allowed with special exception approval in accordance with subsection 8100.3.
  - (d)** For the purpose of this provision, an R district does not include an area within a public street right-of-way.
- (5)** A data center building must be located at least one mile from a Metro station entrance. A lesser distance may be allowed with special exception approval in accordance with subsection 8100.3.
- (6)** Prior to site plan approval, a noise study must be submitted demonstrating to the Zoning Administrator's satisfaction that the operation of the data center will comply with the Noise Ordinance, Chapter 108.1 of the County Code. In addition, prior to issuance of a

Nonresidential Use Permit, a post-construction noise study must be submitted demonstrating to the Zoning Administrator's satisfaction that the operation complies with the Noise Ordinance.

**Standards when permitted by right:**

- (7)** A data center building must include a main entrance feature that is differentiated from the remainder of the building façade by a change in building material, pattern, texture, color, or accent material. The entrance feature must also either project or recess from the adjoining building plane.
- (8)** All building façades must include:
  - (a)** A change in the façade surface for every 150 horizontal feet of at least one of the following: building material, pattern, texture, color, or accent material; and
  - (b)** Windows, doors, or similar fenestration design features such as faux windows, must be distributed horizontally and vertically across the façade and comprise a minimum of 30 percent of the individual façade.

**Standards when permitted by development plan or special exception:**

- (9)** A data center building must be designed to minimize adverse visual impacts on surrounding development as demonstrated by the submission of elevations, architectural sketches, or sight line studies. The building should have a high-quality design as evidenced by the use of materials, color, and texture. If the building is located less than 200 feet from an R district or a property developed with a residential use, it should include changes in building height or other design techniques to provide variation in building mass as viewed from the nearby residential district.

Add rezoning and special exception submission requirements for a data center. Renumber as needed.

## 8101. Submission Requirements

### 2. Zoning Map Amendments (Rezoning)

#### E. Supporting Reports and Studies

The following additional information must be submitted:

**(12) Data Center**

For a rezoning to allow a data center, the application requires the following additional information:

- (a)** A noise study demonstrating that the operation of the data center will comply with the Noise Ordinance, Chapter 108.1 of the County Code.
- (b)** Architectural depictions of the proposed building and associated equipment as viewed from all lot lines and street lines.

### 3. Special Exceptions, Special Permits, and Variances

#### D. Additional or Modified Submission Requirements for Specific Special Exception Applications

The following are additional or modified submission requirements for special exception applications for:

##### (8) Data Center

- (a) A noise study demonstrating that the operation of the data center will comply with the Noise Ordinance, Chapter 108.1 of the County Code.
- (b) Architectural depictions of the proposed building and associated equipment as viewed from all lot lines and street lines.

Add provisions for the Data Centers Zoning Ordinance Amendment to subsection 2.B of Appendix 1, Provisions Relating to Previous Approvals.

##### Data Centers

- (a) Any site plan for a data center accepted for review on or before July 16, 2024, will be reviewed based on the provisions of the Zoning Ordinance in effect on July 16, 2024, if:

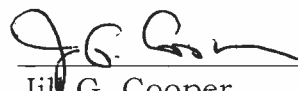
- 1. The site plan is approved by July 16, 2025;
- 2. The approval remains valid; and
- 3. The uses, features, and structures are established or constructed in accordance with approved plans and permits.

An approved plan may be revised notwithstanding this amendment if it does not aggravate conflicts with the amendment. Building permits and other related subsequent plan and permit submissions may be accepted and new approvals may be granted, consistent with the approved site plan. The applicant/owner may elect to have the above applications reviewed in their entirety under the provisions of this amendment.

- (b) For all applications for rezonings and related development plans, special exceptions, site plans, or building permits that include a data center approved on or before July 16, 2024, the applicant/owner may continue under their previous approval. Subsequent plan and permit submissions may be accepted and new approvals may be granted, consistent with those prior approvals. Revisions to such prior approvals may be approved if they do not aggravate conflicts with this amendment.

*These amendments shall become effective on September 11, 2024, at 12:01 a.m.*

*GIVEN under my hand this 10<sup>th</sup> day of September, 2024.*



Jill G. Cooper  
Clerk for the Board of Supervisors