



PLANNING COMMISSION AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Wednesday, May 20, 2026 @ 6:00 PM

The public is invited to attend these meetings in person.

Attend by Phone: 1-469-250-2695 Meeting Access Code: 967 811 259#

Per MN Statutes 13D.02 Subd 1 Commissioners may participate by interactive technology.

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 ___ D. Gorham ___ J. Grecula ___ D. Peterson ___ T. Erickson ___ J. Kramer
___ VACANT

3. **Pledge of Allegiance**

4. **Oath of Office**

A. James Kramer

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

6. **Approval Of Minutes**

A. Draft Minutes from the April 15th, 2026 Special Meeting

B. Draft Minutes from the April 15th, 2026 Regular Meeting

7. **Public Forum**

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

8. **New Business**

A. Consider Interim Use Permit Renewal for Short Term Rental - 1123 15th Ave NE

B. Consider Interim Use Permit for Short Term Rental - 1526 14th Ave NE

C. Consider Rezoning, Conditional Use Permits, and Rezoning Requests for 50 - Unit Multifamily
Apartment — Wright Street

D. **Review Section 515-2-24 - Floodplain Overlay District**

9. **Unfinished Business**

A. **Public Hearing - Shoreland Ordinance**

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

MISSION

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

PLANNING COMMISSION SPECIAL MEETING

Wednesday, April 15th, 2026
5:00 pm

#1 Call to Order

Planning Commission Chair Gorham called the special meeting of the Brainerd Planning Commission to order at 5:00 pm in the City Hall Council Chambers.

#2 Roll Call

Noted present were Commissioners Duval, Grecula, Peterson, Erickson, and Gorham. Also noted as present were City Administrator Broyles and Community Development Director Kramvik.

#3 Pledge of Allegiance

Commission Chair opened the meeting with the Pledge of Allegiance to the flag.

#4 New Business

4a. Comprehensive Plan Kick-Off – Bolton & Menk Presentation

Robin Cauffman and Sarah Swedburg from Bolton & Menk are here to give a presentation of the Comprehensive Plan update. The main purpose of the kick-off meeting is to review the current comprehensive plan and highlight the areas of concern.

Group discussion took place and a workshop type meeting was held. There were many suggestions and ideas shared for a very productive work session. A slide show gave a tentative scope of work and schedule going through 2026. Ms. Cauffman and Ms. Swedburg will compile all the information gathered and make the necessary changes and/or adjustments.

It was decided to hold a monthly meeting remotely every Tuesday at 9:30am with CDD Kramvik, Member Duval and Zoning Specialist Bestul.

#5 Adjourn

MOVED AND SECONDED BY COMMISSIONERS GRECULA AND PETERSON, DULY CARRIED, TO ADJORN AT 6:00 PM.

Don Gorham, Planning Commission Chair

PLANNING COMMISSION
Wednesday, April 15th, 2026

#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, Grecula, Peterson, Erickson, and Gorham. Also noted as present were City Administrator Broyles and Community Development Director Kramvik.

#3 Pledge of Allegiance

Commission Chair Gorham opened the meeting with the Pledge of Allegiance to the flag.

#4 Approval of Agenda

MOVED AND SECONDED BY COMMISSIONERS GRECULA AND ERICKSON, DULY CARRIED, TO APPROVE THE AGENDA AS PRESENTED.

#5 Approval of Minutes

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND GRECULA, DULY CARRIED, TO APPROVE THE MINUTES FROM THE MARCH 18TH, 2026 REGULAR MEETING.

#6 New Business

6a. Consider Variance Request for Expanded Parking Lot Entrance – 411 Laurel Street

Community Development Director Kramvik explained the applicant owns the property at 411 Laurel Street and will soon open an athletic studio. They are concerned with the parking lot traffic flow and available space for turning in and out of spaces. The entrance currently is narrow, and they would like to be able to expand it to allow ease of access to their facility. The allowed distance to the intersection is 60' and the applicant is asking for a reduced distance of 40'.

The Chair opened the public hearing at 6:04 pm.

The Chair recognized Emily Fairbanks, who is the owner and applicant of 411 Laurel Street. She stated that she and her husband purchased this building to expand their personal training business. The entrance to the parking lot will be 20' wide and will improve the movement of traffic in and out.

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

Commissioner Grecula suggested the addition of 10' of green space to add interest to the property and for the storage of snow in the winter.

Commissioner Erickson stated the loss of that one parking space near the corner of Laurel and South 4th Street would actually be good to enhance sight lines at that intersection.

MOVED AND SECONDED BY COMMISSIONERS PETERSON AND DUVAL, DULY CARRIED, TO RECOMMEND APPROVAL OF THE VARIANCE TO EXPAND THE PARKING LOT ENTRANCE AT 411 LAUREL STREET AS PRESENTED.

#7 Unfinished Business

7a. Review Shoreland Ordinance

Community Development Director Kramvik introduced Jake Frie, the Area Hydrologist for the MN DNR who is here to answer any questions on the recent revisions.

Commission discussion took place.

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND PETERSON, DULY CARRIED, TO APPROVE THE SHORELAND ORDINANCE AS PRESENTED AND HOLD A PUBLIC HEARING AT THE NEXT MEETING MAY 20TH.

#8 Public Forum

The Chair opened the public forum at 6:20 pm.

No one came forward.

The Chair closed the public forum at 6:20 pm.

#9 Staff Reports

Community Development Director Kramvik made the following updates:

- The building permit for the Voyageur Heights apartment development on Hwy 371 South has been issued to Kueper's Construction
- The HWY 210 reconstruction project will be starting soon

#10 Commission Member Reports

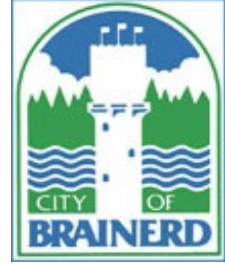
Commissioner Grecula is excited to see the 210 highway reconstruction get started.

#11 Adjournment

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND PETERSON, DULY CARRIED, TO ADJORN AT 6:22 PM.

Don Gorham, Planning Commission Chair

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: May 20th, 2026

RE: Consider Interim Use Permit Renewal for a Short-Term Rental at 1123 15th Ave NE

REQUEST

Public Hearing. Interim Use Permit applied by Jared Luhman on behalf of Luhman Properties LLC for a short-term rental renewal at 1123 15th Ave NE, Brainerd, MN 56401.

Current/Valid Short-Term Rentals

Address	Zoning District	Type of STR
712 6 th St N	TN-1	VDU
1005 6 th St S	TN-2	VDU
9995 Island Dr	GL	VDU
524 8 th S N	TN-1	VDU
714 7 th St S	TN-1	VDU
1123 15 th Ave NE	TN-1	VDU

CONTEXT

Parcel Numbers: 41200517
Zoning District: Traditional Neighborhood-One (TN-1) District
Property Area: 28,690 SQFT

Adjacent Uses: North: Single Family Dwelling
East: Rice Lake
South: Single Family Dwelling
West: Single Family Dwelling

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

AERIAL MAP



FINDINGS OF FACT

1. The property at 1123 15th Ave NE, Brainerd, MN 56401 is located in a TN-1 (Traditional Neighborhood-One) District. The TN-1 District allows short-term rentals as an Interim Use according to Zoning Code [Appendix A: Table of Uses](#).
2. The applicant proposes to operate this short-term rental as a Vacation Dwelling Unit (VDU): A rental where the property owner is not a permanent resident of the unit, and the entire unit is rented without the property owner present during the rental period.
3. Renewal for an Interim Use Permit for an existing short-term rental at a premises shall be granted for a duration not to exceed twenty-four (24) months.
4. Short-term rentals must comply with the following minimum standards as required by the [Section 515-3-34](#) of the Zoning Code:
 - a. The maximum rental period shall not be more than 28 consecutive nights.
 - b. The permit holder (owner) of a short-term rental must apply for and receive an interim use permit.
 - i. *The applicant has applied for the renewal of the Interim Use Permit for the operation of a short-term rental.*
 - c. The application for an interim use permit shall include:
 - i. The number of bedrooms with dimensions and all other sleeping accommodations
 1. *The proposed short term rental has four (4) bedrooms.*
 2. *The dimensions of each of these respective bedrooms are 12'x11', 12'x10', 10'x10', and 26'x12'.*

- ii. The number of off-street parking spaces available to guests.
 - 1. *There are four off-street parking spaces allocated to guests in the driveway and the applicant does not permit short term renters to utilize on-street parking.*
- iii. All accessory structures and outdoor recreational features available for guest use
 - 1. *The yard is available for guest use along with a fire pit. Guests are responsible for making sure that all the fires are completely extinguished when they are done tending them. If the property manager receives a call from a neighbor concerned about a fire that is unattended or too large, the manager will deal with it immediately.*
- iv. A pet, garbage, and noise policy.
 - 1. *There are no pets allowed on the property in their submitted policies noted as, "House Rules".*
 - 2. *Two garbage bins for use are located at the property with a capacity of six bags.*
 - 3. *There is a rule imposing quiet hours after 10:00 PM until 9:00 AM.*
- v. 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.
 - 1. *Emergency contact information is posted.*
- d. A permit holder must disclose in writing to their renters the following information regarding property policies and City codes:
 - i. 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 always be accessible to the public on the City of Brainerd website.
 - 1. *Mr. Fish is the responsible party for this rental unit, and he resides within 50 miles of the premises.*
 - ii. Occupancy. The maximum number of guests allowed at the property.
 - 1. *The property is advertised for 9 guests on Airbnb.*
 - iii. 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 more than forty-eight (48) continuous hours.
 - 1. *The rules state that there is parking available in the driveway. This would include trailers, however not recreational vehicles, as they are specifically prohibited by the rules.*

- iv. Garbage. Garbage and refuse containers shall be placed out for collection no earlier than 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.
 - 1. *The weekly garbage schedule is provided for renters per the rules provided.*
- v. Noise. No person shall, between the hours of 10:00 P.M. and 7:00 A.M. congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume to disturb the peace, quiet, or repose of another person.
 - 1. *The short-term rental rules impose quiet hours after 10:00pm and until 9:00am.*
- vi. 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. It 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 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.
 - 1. *The short-term rental rules prohibit pets.*
- e. The occupancy of a short-term rental shall be limited to no more than 3 people per bedroom or the occupancy set by the Building Official.
 - i. According to [Section 404.4.1 of the Property Maintenance Code](#), every bedroom shall contain not less than 70 square feet (6.5 m2) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m2) of floor area for each occupant thereof, whichever is less.
 - 1. *The house rules indicate only registered guests are authorized after dark. No unauthorized guests are allowed overnight.*
 - 2. *Bedroom one is 132 SQFT which allows for two guests.*
 - 3. *Bedroom two is 120 SQFT which allows for two guests.*
 - 4. *Bedroom three is 100 SQFT which allows for two guests.*
 - 5. *Bedroom four is 312 SQFT which exceeds the requirement for a maximum of 3 guests per room (three guests).*
 - ii. *Total occupancy of the short-term rental is 9 guests based on the square footage calculation and zoning requirements.*
- f. 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 egress windows and smoke detectors that comply with the Minnesota State Building Code and will be inspected by the Housing Inspector and the Fire Marshal.*

- g. 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).
 - i. *The short-term rental is connected to the city sewer and water system. The building plans show a full bathroom with a toilet, tub/shower, and sink.*
- h. Additional occupancy by use of recreational vehicles, tents, accessory structures, or fish houses is not permitted.
 - i. *The applicant is not proposing occupancy by use of recreational vehicles, tents, accessory structures, or fish houses. Their policies for the property explicitly prohibit them.*
- i. 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.
- j. 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 Marshal.
 - i. *The premises was inspected by the Housing Inspector and by the Fire Marshal.*
- k. 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.
 - i. *Staff recommend a two-year renewal since no issues have been brought to the Community Development Department.*
 - ii. *The following conditions were applied to the previous interim use permit.*
 - 1. *All outdoor lighting fixtures shall meet the standards of Section 515-4-8 Outdoor Lighting of the Zoning Code.*
 - 2. *All watercraft docked in the lake at the property shall be within the boundaries of 1123 15th Ave NE.*
 - 3. *Overnight guest vehicles and trailers must be parked in the driveway. Two additional vehicles may be parked on the street for daytime guests.*
 - 4. *Submission of the Lodging Tax report on a monthly basis to the Finance Department.*
- l. A permit holder must post their rental license permit number on all print, poster, or web advertisements.

- m. 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.
 - i. *The application for short-term rentals includes an application for local sales tax that must be submitted to the City's Finance Department. It is the owner's responsibility to contact the MN Department of Health.*
- n. There are to be no more than forty (40) operational VDU's at any given time in the City and are granted on a first-come first-serve basis.
 - i. There shall be no more than twenty (20) total VDU's permitted in the Town Center and Main Street District, and in all other zoning districts there shall be no more than ten (10) total VDU's permitted at any given time.
 - 1. Only one (1) building with a permitted VDU may be located on any platted block and shall not abut another property approved for a short-term rental.
 - a. *There are currently six (6) VDU's in Brainerd.*
 - b. *This property is in the TN-1 District. Including this property, there are currently four (4) VDU's in the TN-1 District.*
 - c. *There are no other VDU's on this platted block.*

As of this writing, no party has contacted the Community Development Department regarding the Interim Use Permit.

STAFF RECOMMENDATION

Staff recommends approval of the Interim Use Permit renewal for one short term rental unit at 1123 15th Ave NE Brainerd, MN 56401 with the following conditions:

- 1) The Interim Use Permit for a short-term rental at 1123 15th Ave NE. Brainerd, MN 56401 terminates two years after approval.
- 2) The Interim Use Permit shall terminate upon sale or transfer of the property.
- 3) Occupancy of the short-term rental shall not exceed 9.
- 4) All outdoor lighting fixtures shall meet the standards of Section 515-4-8 Outdoor Lighting of the Zoning Code.
- 5) All watercraft docked in the lake at the property shall be within the boundaries of 1123 15th Ave NE.
- 6) Overnight guest vehicles and trailers must be parked in the driveway. Two additional vehicles may be parked on the street for daytime guests.
- 7) Submission of the Lodging Tax report on a monthly basis to the Finance Department.



Community Development Department

City Hall - 501 Laurel Street Brainerd, MN 56401
218/828-2309/Fax 218-828-2316 www.ci.brainerd.mn.us

INTERIM USE PERMIT for SHORT-TERM RENTAL

Application Form (residential - \$350.00 / 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: 1123 15th Ave. NE Brainerd, MN 56401

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use Permit to allow us to use the property as a short term rental

at the property address listed above until the date of August, 1 2027

Legal Description (attach, if lengthy): Lot 9 Block Addition

S. 160 FT OF LOT 9 EX. S. 65 FT THEREOF.

Property Owner: Luhman Properties LLC

Address: 23008 350th st Goodhue MN 55027
(Street) (City) (State) (Zip)

Contact Information #: 507-271-5968

(Home)

(Business)

mike@mnreandm.com

(E-mail)

(Fax)

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) Michael Fish

Address: Suite #205 14391 Baxter MN 56425
(Street) (City) (State) (Zip)

Contact Information #: 218 232 7079

(Home)

218-232-7079

(Business)

mike@mnreandm.com

(E-mail)

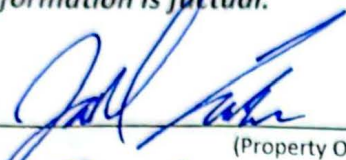
(Fax)

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 all 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 all the required information to apply for an Interim Use Permit and that the information is factual.

Signed by: _____



(Property Owner)

Date: _____

4-20-26

Jared Luhman

(Property Owner-Please print Name)

(Applicant-If different than owner)

Date: _____

(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 515-5-3 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 515-5-2 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)



- Bedroom 1: 12x11 (132 sq ft)
Bedroom 2: 12x10 (120 sq ft)
Bedroom 3: 10x10 (100 sq ft)
Bedroom 4: 26 x 12 (312 sq ft)
Total Max Proposed Sleeping for STR License: 11

Max Proposed Sleeping 3 (queen + twin pullout)
Max Proposed Sleeping 2 (queen bed)
Max proposed Sleeping 2 (queen bed)
Max Proposed Sleeping 4 (queen plus two twins)

1123 15th Ave NE Brainerd GENERAL HOUSE RULES

All guests are responsible for reviewing and following all basic house rules. Any violation of these rules MAY result in immediate eviction and forfeiting of all monies. Any breach of House Rules (including extraordinary cleaning) will also result in a charge to the credit card on file for no less than \$250 & up to \$500 per violation plus damage to property. This Charge will be discussed with the guest beforehand and processed on the card on file or billed out to the responsible guest with a 30 net demand for payment.

We want you to have an enjoyable stay! However, the following rules are necessary to protect our guests, neighbors, property, and make it possible for us to continue running as a successful short-term rental. Most guests appreciate and understand the general house rules. Let us know if you have questions. We always accommodate when we can.

Let us start by stating that we ask every guest to have the utmost consideration for our neighbors and community. After all, they did not choose to live next to a vacation rental. Many enjoy and appreciate the guests that rent from us. Some are not so appreciative, so we make our best effort. We must work closely with our neighbors and community if we are going to be able to continue to provide Short Term Rental opportunities for years to come.

Aside from the sign in the yard, all neighbors have our cell phone number and have been asked to call or text 24/7 with any concerns. We also strongly encourage our owners to have a ring camera on the front door. We want everyone to have a good time; however, our basic house rules must be followed. Problems for us are rare, but if you have questions please reach out.

SMOKING OR VAPING INSIDE

Smoking and vaping are strictly prohibited. A guest who smokes in a property without authorization will be charged for carpet cleaning and deodorizing if any evidence of smoking is found.

FIREWORKS

Fireworks of any kind ignited on the property are not allowed. There is just too much clean up, accidental damage, and neighbor complaints to allow fireworks of any kind.

PETS

There are no pets allowed on the property.

Illegal Drugs or other Illicit Activity

No drugs or illegal activity is allowed on the property. Any suspected illegal activity will be immediately turned over to the authorities.

HARD TO CLEAN MESSES

Confetti, glitter, balloons, silly string are not allowed on the property. Please be very careful that gum does not get on furniture, pillows etc. Small, excessive debris of any kind thrown around

the property can make housekeeping very difficult and expensive. We reserve the right to run an extra charge on the CC on file if there is an unreasonable mess left for housekeeping.

YARD DEBRIS

Any garbage or debris thrown in the yard may cause environmental issues and severely impact our relations with neighbors. This most definitely includes water balloons & garbage left in the yard. Water balloons are strictly prohibited, and we ask that you please clean up any outside mess.

GARBAGE

Two garbage cans are provided at the home for each stay. This covers about six bags of trash, which is more than enough for most groups. Please let us know if for some reason you have an excess of garbage. We must hire someone to come and pick up the excess garbage and dispose of it. We do ask that guests let us know if they do have an extraordinary amount of garbage and we ask that they cover the cost of removal. See your specific house rules for pick up times.

UNAUTHORIZED GUESTS OVERNIGHT

Only registered guests can be on the property after dark. See the GUESTS section for more details. We are strictly regulated by the Short-Term License as to how many guests are allowed. This is based on the size of the home. Please be respectful of our rules so our owners do not get in trouble. We prohibit any tents or camping in yards.

NEIGHBOR OR POLICE CALL

Avoiding a complaint or nuisance call by the neighbors or incident involving the police are the reason for all the other rules! The four most common calls we receive are for 1) Too many guests 2) Noise pollution 3) Unauthorized dogs 4) Too many cars. PLEASE ask us if you have questions concerning any of the house rules. Of course, we take each individual situation into account and work closely with our guests to ensure fairness.

EXCESSIVE OR INDECENT NOISE

All neighbors have been given a cell phone number and asked to call or text 24/7 if they have issues. We know you're coming to enjoy your time and that may involve making some noise. However, please be considerate of our neighbors. Quiet hours are 10 PM to 9 AM. Loud music, at any time or music with obscene language or containing explicit sexual content is prohibited. Constant screaming or yelling with obscene language is prohibited. We have some neighbors with small children who may be offended at any loud obscenities. We appreciate your patience and cooperation with this issue.

SELF TANNING LOTION, FINGERNAIL POLISH & REMOVER

Accidents happen and fingernail polish/remover & Self-tanning lotion is prohibited from all properties. It destroys towels, bed linens, and permanently stains furniture.

EXTRA DAYTIME GUESTS

If you do plan to have company during your stay you **MUST** get prior approval from Management. Daytime guests must never exceed more than the number of registered guests and must be off the property by nightfall.

PARKING

Our rental license allows up to one vehicle per bedroom. There can be no parking on a public road or in a yard. Please let us know if there is a need to make an exception. This is a common complaint call from neighbors, and we need to follow the rules.

USE OF AMENITIES

Due to liability and insurance concerns only guests who are listed on the rental agreement and registered as guests are allowed to use any amenities.

OPERATION OF ATVs & SNOWMOBILES

No motorized vehicles of any kind are allowed at this rental. (expectation of course it be vehicle used to transport guest to the property)

USE OF FIREARMS

As much as we support your right to carry and use firearms, a short-term rental is not the place for them. MN RE&M strictly prohibits firearms from all properties.

OUTSIDE FIRES

We provide a great firepit for our guests to use. It is very important that guests use proper fire safety. When things get dry and the wind picks up flames can easily flare up, get blown into nearby grass and start a serious fire. Guests are responsible for making sure that all fires are completely extinguished when they are done tending them. If we get a call from a neighbor concerned about a fire that is unattended or too large, we must deal with it immediately by calling the guest and asking them to put it out. If they are not reached, all costs of having someone come to put the fire out will be billed to the guest's credit card on file.

LARGE GROUPS, MEETINGS, PARTIES

The Guest must not hold events (such as parties, celebrations, or meetings that exceed the capacity of the home) Any of these cases will allow the Owner to terminate the Agreement without providing a refund of any payment the Guest has paid for the booking and the Owner will not be legally responsible to find any alternative accommodation.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Luhman Properties LLC has submitted an Interim Use Permit renewal to operate a short-term rental at 1123 15th Ave NE. Brainerd, MN 56401. The property included in this application is described as:

Lot 9 AUDITORS SUBDIVISION OF NW 20-45-30 S. 160 FT OF LOT 9 EX. S 65 FT THEREOF

P.I.N. 41200517

Section 20, Township 045, Range 030

The property is zoned TN-1 (Traditional Neighborhood One) District. [Appendix A: Table of Uses](#) of the Zoning Code requires an Interim Use Permit for the operation of a short-term rental in a TN-1 District as regulated by Section 515-3-34 Short-Term Rentals. 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, May 20th, 2026, in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider the Interim Use Permit.

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

Dated this 6th day of May, 2026



James L. Kramvik
Community Development Director

Publication Date: May 9th, 2026

We are here because the property owners and management team of the VRBO/Airbnb at 1123 15th Avenue NE, Brainerd are benefiting from the rental income at the expense of the neighbors.

The 1123 property is located in a traditional family neighborhood consisting of young and mature families; families whose members work, attend school, and/or have retired. We purchased and chose to live in a peaceful, safe neighborhood. For our neighborhood to be peaceful and safe again, we need the assistance and collaboration of the 1123 property owners and property management.

As neighbors, it should not be our full-time job to ‘police’, ‘monitor’ and ‘tolerate’ disruptive situations at 1123 to try maintain a respectful, peaceful environment; that is the responsibility of the property owners and managers.

We ask that ‘1123 owners/managers’ be held responsible and accountable, going forward, as part of their rental agreement with the City of Brainerd. If we have to call the Brainerd Police or Fire Department every time there is a violation, we will be calling almost every week/weekend.

We ask that the VRBO/Airbnb website directions for the 1123 property are updated to be ‘clear and concise’ **AND** signage be installed and maintained by the 1123 property owners/managers; **signage needs to be clearly visible (day and night) from the street level while in a vehicle.** Better signage hopefully eliminates/minimizes renters from trespassing, trying to access/enter/break-in to clearly marked ‘private’ neighboring properties which jeopardizes the comfort, safety and security of neighbors.

We ask that the ‘minimum age, responsible, mature, respectful’ adult rental policy be enforced and that the ‘house rules’ remind renters to be ‘respectful’ and ‘considerate’ of neighbors’ comfort, security, private property lines on land and lakeside/lake accesses.

The ‘hot tub’ and ‘party deck’ situation:

The 1123 property is a long and narrow lot; all the properties in this area are in close proximity to the neighboring properties; there are no zonal buffers, no sound-proof or visual barriers/buffers.

The ‘hot tub’ is listed as the ‘first’ amenity, the lakeside deck is another highlighted amenity on the vacation rental website. The reviews on the website mention how wonderful the hot tub and lakeside deck are-FOR THE RENTERS (benefiting THE PROPERTY OWNERS AND MANAGERS AT THE EXPENSE OF THE NEIGHBORS). Unfortunately, the reviews you do not see are from the neighbors, who have to live next to a property that has non-stop parties on that deck and in that hot tub, all hours of the day and night, in all seasons.

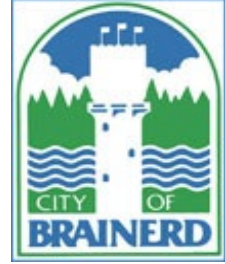
We are asking, going forward, **1123 property owners and property managers to: update their house rules to include, highlight and ‘enforce’ the Brainerd City Code Section 2014 ordinance; to install and maintain ‘reliable/effective’ decibel meters/sound monitors; to start ‘policing, monitoring, addressing/resolving’ the ordinance violations related to the ‘non-stop’ partying, loud voices, loud music, and bright lights all hours of the day and night; to install privacy and sound-buffer fences.**

We ask that going forward, property management refrain from revealing the identity/identities of neighbors’ presenting issues/concerns regarding 1123 renters to said renters to prevent the neighbors from being harassed and further endangering their comfort, safety, security and health.

We ask that the property owners and managers monitor/manage the renters trash disposal; provide more containers; frequent pickup so ‘all’ refuse/recycling is placed ‘inside’ the containers, removed regularly, and not left for neighbors to collect/dispose of from city streets, private properties and the lake.

Please remind renters of ‘bonfire’ safety rules and ensure compliance.

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: May 20th, 2026

RE: Consider Interim Use Permit for a Short-Term Rental at 1526 14th Ave NE

REQUEST

Public Hearing. Interim Use Permit applied by Kathryn Pinke on behalf of Star Oak Properties LLC for a short-term rental at 1526 14th NE, Brainerd, MN 56401.

Current/Valid Short-Term Rentals

Address	Zoning District	Type of STR
712 6 th St N	TN-1	VDU
1005 6 th St S	TN-2	VDU
9995 Island Dr	GL	VDU
524 8 th S N	TN-1	VDU
714 7 th St S	TN-1	VDU
1123 15 th Ave NE	TN-1	VDU

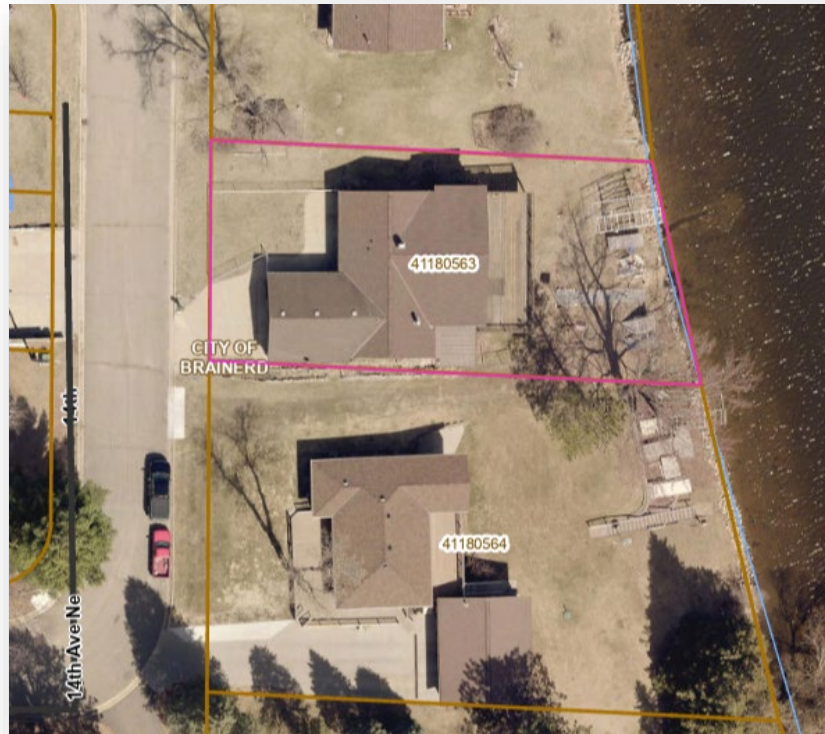
CONTEXT

Parcel Numbers: 41180563
Zoning District: Traditional Neighborhood-One (TN-1) District
Property Area: 10,355 SQFT

Adjacent Uses: North: Single Family Dwelling
East: Rice Lake
South: Single Family Dwelling
West: Privately Owned Lot w/Garage

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

AERIAL MAP



FINDINGS OF FACT

1. The property at 1526 14th Ave NE, Brainerd, MN 56401 is located in a TN-1 (Traditional Neighborhood-One) District. The TN-1 District allows short-term rentals as an Interim Use according to Zoning Code [Appendix A: Table of Uses](#).
2. The applicant proposes to operate this short-term rental as a Vacation Dwelling Unit (VDU): A rental where the property owner is not a permanent resident of the unit, and the entire unit is rented without the property owner present during the rental period.
3. An Interim Use Permit for a short-term rental at a premise shall be granted for a duration not to exceed twelve (12) months.
4. Short-term rentals must comply with the following minimum standards as required by the [Section 515-3-34](#) of the Zoning Code:
 - a. The maximum rental period shall not be more than 28 consecutive nights.
 - b. The permit holder (owner) of a short-term rental must apply for and receive an interim use permit.
 - i. *The applicant has applied for an Interim Use Permit for the operation of a short-term rental.*
 - c. The application for an interim use permit shall include:
 - i. The number of bedrooms with dimensions and all other sleeping accommodations

1. *The proposed short rental has five (5) bedrooms.*
2. *The dimensions of each of these respective bedrooms are 16'4" x 11'6", 14'6" x 11'2", 9'7" x 11'11" on the main floor and 12'9" x 11'11", and 13'7" x 11'2" on the lower level.*
- ii. The number of off-street parking spaces available to guests.
 1. *There are two off-street parking spaces allocated to guests in the driveway and two available in the garage. The applicant does not permit short-term renters to utilize on-street parking.*
- iii. All accessory structures and outdoor recreational features available for guest use
 1. *The applicant did not list any recreational outdoor features.*
 2. *The property does have a dock to access the lake.*
- iv. A pet, garbage, and noise policy.
 1. *The applicant does allow a maximum of two dogs with an additional fee. The dogs must be leashed while outdoors, kenneled while indoors unattended and all waste cleaned up upon departure.*
 2. *Garbage service is collected weekly and bins are available for use.*
 3. *There is a rule imposing quiet hours Sunday – Thursday 10:00pm – 7:00am and Friday – Saturday 12:00am – 7:00am.*
- v. 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.
 1. *Emergency contact information is posted.*
- d. A permit holder must disclose in writing to their renters the following information regarding property policies and City codes:
 - i. 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 always be accessible to the public on the City of Brainerd website.
 1. *Larry Frasier of AirCasa is the owner's agent and is located in Baxter.*
 - ii. Occupancy. The maximum number of guests allowed at the property.
 1. *The posted rules for the short-term rental state a guest maximum of 10 guests and parties are prohibited.*
 - iii. 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 more than forty-eight (48) continuous hours.

- Page 23 of 112

5. *Bedroom four is approximately 150 SQFT which exceeds the requirement for three guests per room.*
6. *Bedroom five is approximately 149 SQFT which exceeds the requirement for two guests.*
- ii. *Total occupancy of the short-term rental is 12 guests based on the square footage calculation and zoning requirements.*
- iii. *The applicant proposed a maximum of (10) guests, (2) per bedroom.*
- f. 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 egress windows and smoke detectors that comply with the Minnesota State Building Code and was inspected by the Housing Inspector and the Fire Marshal on May 7th, 2026..*
- g. 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).
 - i. *The short-term rental is connected to the city sewer and water system. The building plans show a full bathroom with a toilet, tub/shower, and sink.*
- h. Additional occupancy by use of recreational vehicles, tents, accessory structures, or fish houses is not permitted.
 - i. *The applicant is not proposing occupancy by use of recreational vehicles, tents, accessory structures, or fish houses.*
- i. 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.
- j. 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 Marshal.
 - i. *The premises was inspected by the Housing Inspector and by the Fire Marshal on May 7th and the house was issued a rental license.*
- k. 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.
 1. *Staff have recommended that additional conditions should apply to the short-term rental and have included them in the staff recommendation.*

- l. A permit holder must post their rental license permit number on all print, poster, or web advertisements.
- m. 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.
 - i. *The application for short-term rentals includes an application for local sales tax that must be submitted to the City's Finance Department. It is the owner's responsibility to contact the MN Department of Health.*
- n. There are to be no more than forty (40) operational VDU's at any given time in the City and are granted on a first-come first-serve basis.
 - i. There shall be no more than twenty (20) total VDU's permitted in the Town Center and Main Street District, and in all other zoning districts there shall be no more than ten (10) total VDU's permitted at any given time.
 - 1. Only one (1) building with a permitted VDU may be located on any platted block and shall not abut another property approved for a short-term rental.
 - a. *There are currently six (6) VDU's in Brainerd.*
 - b. *This property is in the TN-1 District. Excluding this property, there are currently four (4) VDU's in the TN-1 District.*
 - c. *There are no other VDU's on this platted block.*

As of this writing, one party has contacted the Community Development Department regarding the Interim Use Permit and was opposed to the short-term rental as they did not want this type of use in the neighborhood.

STAFF RECOMMENDATION

Staff recommends approval of the Interim Use Permit for one short term rental unit at 1526 14th Ave NE Brainerd, MN 56401 with the following conditions:

- 1) The Interim Use Permit for a short-term rental at 1526 14th Ave NE. Brainerd, MN 56401 terminates one year after approval.
- 2) The Interim Use Permit shall terminate upon sale or transfer of the property.
- 3) Occupancy of the short-term rental shall not exceed 10.
- 4) All outdoor lighting fixtures shall meet the standards of Section 515-4-8 Outdoor Lighting of the Zoning Code.
- 5) All watercraft docked in the lake at the property shall be within the boundaries of 1526 14th Ave NE.
- 6) Overnight guest vehicles and trailers must be parked in the driveway. Two additional vehicles may be parked on the street for daytime guests.
- 7) Submission of the Lodging Tax report on a monthly basis to the Finance Department.



Community Development Department

City Hall – 501 Laurel Street Brainerd, MN 56401

218/828-2307/Fax 218-828-2316 www.brainerdmn.gov

INTERIM USE PERMIT for SHORT-TERM RENTAL

Application Form (residential - \$350.00 / 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: 1526 14th Ave NE

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use Permit to allow Short -Term Rental

at the property address listed above until the date of renewal

Legal Description (attach, if lengthy): Lot 003 Block 002 Addition

09150 Lakeview Addition to Brainerd

Property Owner: Star Oak Investments LLC, Kathryn Pinke

Address: 550 34th Street Northeast Northwood ND 58267
(Street) (City) (State) (Zip)

Contact Information #: 701-261-9494
(Home)

(Business)
katpinke@gmail.com
(E-mail)

Applicant: (if different than Property Owner) listed above

Address: _____
(Street) (City) (State) (Zip)

Contact Information #: _____
(Home) (Business)

(Fax) (E-mail)

Contact Person: (if different than Property Owner) listed above

AirCasa

Larry Frasier

Address: **12115 Fuschia Dr. Baxter, MN 56425**
(Street) (City) (State) (Zip)

Contact Information #: **218-330-7897**
(Home)

aircasaservices@gmail.com

(Fax)

(Business)

(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 all 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 all the required information to apply for an Interim Use Permit and that the information is factual.

Signed by: Kathryn Pinke Date: 4-30-26
(Property Owner)

Kathryn Pinke

(Property Owner-Please print Name)

(Applicant-If different than owner) Date: _____

(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 515-5-3 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 515-5-3 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)



These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

ArcGIS Web Map

Land Use Classification

- | | | | | | | |
|--------------------------------|-----------------------|--------------------------------------|------------------------|-------------------------|------------------------------|-----------------------|
| Agricultural/Forestry District | Commercial District 1 | Commerical/Heavy Industrial District | Rural Residential - 20 | Rural Residential - 5 | Rural Residential - 1 | Shoreland District |
| Airport District | Commercial District 2 | Commerical/Light Industrial District | Rural Residential - 10 | Rural Residential - 2.5 | Sensitive Shoreland District | Urban Growth District |
| | | | | | | Waterfront Commerical |



Date: 5/4/2026 Time: 11:58 AM



1526 14th AVE NE, Brainerd, Minnesota 56401

In case of emergency: 911

Welcome! You booked, traveled and arrived at Paul Bunyan's Lake House on Rice Lake. This is a family-owned and operated home. Every update and detail has been chosen with care.

We've stocked the home with thoughtful amenities to make your stay as relaxing and enjoyable as possible from cozy linens, quality mattresses and furnishings, a fully equipped kitchen, games, and more.

Whether you're exploring Brainerd, enjoying the view, or heading out on the water, we hope every moment feels special.

If you're looking to venture out and explore, we've shared local suggestions in your booking platform messages. You can also find more at explorebrainerdlakes.com.

Enjoy your stay.

HOUSE RULES

GENERAL RULES

House Occupancy: 10

- The house occupancy is 10, 2 per bedroom.

No Unauthorized Parties or Events

- Unauthorized parties or events are not allowed. A **\$500 fee** will be charged and your reservation immediately canceled if this rule is broken.

Noise Policy & Quiet Hours

- Sunday–Thursday: 10:00 p.m. to 7:00 a.m.
- Friday–Saturday: 12:00 a.m. to 7:00 a.m.

During quiet hours, you can still be outside or on the deck with quiet voices, just no loud voices, music or games to be respectful to neighbors. Decibel sensors are in place to help us proactively monitor this policy.

No Trespassing on Neighboring Properties

Please stay within the boundaries of our deck, driveway and lawn.

No Smoking Inside (Includes vaping)

Smoking indoors will result in a **\$750 fee**. Outdoor smoking is permitted away from entrances. Please clean up immediately.

Deliveries & Mail

Guests must be present to accept any deliveries. No mail or packages may be sent to or left in the property's mailbox. The host is not responsible for lost, delayed, or returned packages.

SECURITY & SAFETY

Exterior Security Cameras

There are four exterior security cameras monitoring the driveway, garage, and entrances for your safety. Cameras are not monitored during your stay unless there's a complaint or law enforcement contacts us. Do not tamper with or cover cameras. Doing so will result in a **\$500 fee** and immediate cancellation of your reservation.

No Illegal Activities or Substances

Any illegal activity will result in immediate cancellation of your reservation, notification of law enforcement, and an additional **\$750 fee**.

No Fireworks, Glitter, or Confetti

These are strictly prohibited on the property.

PET POLICY

Dogs Only

- Maximum of 2 dogs allowed with a **\$180 pet fee**, to be added to your reservation.
 - We provide waste bags, a scooper, and food/water dish.
 - No undisclosed pets. Bringing unauthorized dogs or other pets will result in a **\$750 fee**.
 - Dogs must be leashed outside, kenneled inside when unattended, and not allowed on furniture.
 - Clean up all pet hair and dog waste before departure. Dog waste must be bagged and placed in the exterior trash daily.
-

RESPECT FOR THE HOME

- No Unregistered Guests
 - No Eating or Drinking in the Bedrooms
 - Respect Check-In (4:00 p.m.) & Check-Out (11:00 a.m.) Times
 - Take Care of the Furnishings
 - Accidents happen. Please let us know about any damages before checkout.
 - You are responsible for any damage beyond normal wear and tear.
 - Don't Rearrange Furniture
 - Do Your Dishes Before You Leave
 - Turn Off All Lights and Appliances Before Departure
 - Take Out the Trash Before Departure (All trash must be bagged)
 - Lock All Exterior Doors Before Departure
-

PARKING

- Up to 4 Vehicles Allowed, two parked in the garage and two on the driveway.
 - No street parking.
 - No RV parking or RV stays on the premises.
-

OUR LICENSE

PERMIT NUMBER HERE

This home is permitted, licensed and inspected by the City of Brainerd for short-term rentals. We take pride in maintaining a safe and welcoming space for our guests.

If you have any questions during your stay, please reach out through your booking platform. We're here to make your visit as enjoyable as possible. Thank you.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Kathryn Pinke, on behalf of Star Oak Investments LLC has submitted an Interim Use Permit to operate a short-term rental at 1526 14th Ave NE. Brainerd, MN 56401. The property included in this application is described as:

Lakeview Addition to Brainerd Lot 3 Block 2
P.I.N. 41180563
Section 18, Township 045, Range 030

The property is zoned TN-1 (Traditional Neighborhood One) District. [Appendix A: Table of Uses](#) of the Zoning Code requires an Interim Use Permit for the operation of a short-term rental in a TN-1 District as regulated by Section 515-3-34 Short-Term Rentals. 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, May 20th, 2026, in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider the Interim Use Permit.

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

Dated this 6th day of May, 2026



James L. Kramvik
Community Development Director

Publication Date: May 9th, 2026

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: May 20th, 2026

RE: Consider Rezoning, Conditional Use Permits, and Variance Request for a 50 - Unit Multifamily Apartment — 10320 Wright Street

REQUEST

PUBLIC HEARING.

Rezoning and Future Land Use Amendment request to subdivide 5 acres from the 26-acre parcel and rezone the new parcel to a CN-2 (Contemporary Neighborhood 2) Zoning District and amend the Future Land Use Map to Medium-High Density Residential.

Conditional Use Permits for the construction of a multi-family (5+ unit) apartment, to exceed the lot size maximum, and exceed the lot width in the CN-2 District.

Variance request from the off-street parking requirements in the CN-2 District.

CONTEXT

Parcel Number: 41310501 (Tract A of Proposed Subdivision – 6.04 Acres)

Zoning District: General Industrial (GI) District

Property Area: Approximately 6.04 Acres

Adjacent Uses: North: Storage/ Warehousing & Vacant Property
East: Vacant Property
South: Vacant Property
West: Data Center

Adjacent Zoning: North: General Industrial (GI) District
East: General Industrial (GI) District
South: General Industrial (GI) District
West: General Industrial (GI) District

AERIAL MAP



FINDINGS OF FACT – REZONING

1. The property at 10320 Wright Street is in the General Industrial (GI) District. The applicant is requesting to subdivide the parcel and rezone to a CN-2 (Contemporary Neighborhood 2) Zoning District. Zoning Ordinance [515-3 Allowed Uses, Appendix A: Table of Uses](#) allows for multi-family attached dwelling units as a Conditional Use in the CN-2 District.
2. The property is currently designated as Industrial in the [Comprehensive Plan's Future Land Use Map](#). The Future Land Use Map must be amended to Medium-High Density Residential to reflect the proposed zoning change.
 - a. The Land Use Map, along with related goals, policies and strategies serve as the Land Use Plan, which is a long-term guide for how development should occur in Brainerd and provides a framework for making decisions on development and allocation of public resources.
3. 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.
 - i. **Economic Development Goal 1:** Support infill and redevelopment throughout Brainerd as a strategic component of growth.

1. **Policy 1:** Drive infill development and redevelopment towards areas where current infrastructure is present, or places where high levels of blight or disinvestment exist.
 - a. *The Wright Street extension has readily available utilities to support a multi-family apartment.*
- ii. **Housing Goal 1:** Provide a diverse mix of housing choices for all stages of life, income ranges, and ownership/rental preferences.
 2. Expand home ownership and rental opportunities through rehabilitation and new construction.
 - a. *The expansion of residential units adds additional rental units to Brainerd with a mix of one, two, three, and four-bedroom units in the proposed development.*
- b. The proposed uses are to be compatible with present and future land uses of the area.
 - i. *The proposed Future Land Use Map designation for this property is Medium-High Density Residential.*
 - ii. *The property is adjacent to properties designated as Industrial in the Future Land Use Map.*
 - iii. *A goal of the Brainerd Economic Development Authority is to evaluate the City's vacant industrial property for compatible non-industrial uses that would address current and future needs of the community.*
 - iv. *The surrounding undeveloped land could continue to be utilized to support Brainerd's housing needs.*
- c. The proposed use's effect upon the area in which it is proposed.
 - i. *The proposed use will not have an adverse effect on the area as the City continues to explore residential development of its City owned industrial property.*
 - ii. *The developer must ensure through a sound study that their development will be within MPCA noise requirements due to the adjacent data center that produces consistent noise.*
- d. Traffic generation of the proposed use in relation to capabilities of streets serving the property.
 - i. *Wright Street is minimally used, and the City Engineer has no concerns at this time regarding traffic generation.*
- e. The proposed uses impact upon existing public services and facilities including parks, schools, streets, and utilities, and its potential to overburden the City's service capacity.
 - i. *The proposed use will not have an impact on existing public services and facilities including parks, schools, streets, and utilities, and its potential to overburden the City's service capacity.*
4. In addition to the above criteria, the City Council should consider the following criteria for a Future Land Use Amendment.
 - a. Are there changed conditions that affect the development of the property, which supports the proposed amendment?

- i. *The Brainerd Economic Development Authority made it a strategic goal to evaluate the City's vacant industrial property for compatible non-industrial uses that would address current and future needs of the community.*
 - ii. *The City developed this area for Industrial opportunities and originally designated this property for Industrial Use.*
 - iii. *The property has remained undeveloped for several years. It is in the best interest of the City to develop this land as roads and utilities will need to be maintained in the future.*
- b. Is there a mistake in the Future Lands Use Plan map?
 - i. *There is no mistake with the Future Land Use map.*
- c. Has there been a change in the community not anticipated when the Plan was adopted?
 - i. *The [2020 Crow Wing County Workforce Housing Study](#) identified a substantial need for additional residential housing units in Brainerd and the surrounding areas.*

FINDINGS OF FACT – CONDITIONAL USE PERMIT

5. The property at 10320 Wright Street is in the General Industrial (GI) District. The applicant is requesting to subdivide the parcel and rezone to a CN-2 (Contemporary Neighborhood 2) Zoning District. Zoning Ordinance [515-3 Allowed Uses. Appendix A: Table of Uses](#) allows for multi-family attached dwelling units as a Conditional Use in the CN-2 District.
6. According to [Section 515-2-7.C - CN-2 Zoning District Dimensional Standards](#) lots may be larger than 15,000 SF and a lot width exceeding 80' with an approved Conditional Use Permit. The applicant is requesting to subdivide the parcel with a lot size of a 263,102 SF and a lot width of 424.43' on Kitty Hawk Court from the centerline of the Wright Street right-of-way.
7. According to [Section 515-6-2.B.39 Definitions of Use, Standards and Terms](#) the definition of a multi-family dwelling is a building designed for multiple dwelling units for occupancy by families living independently of each other.
 - a. According to [Section 515-4-2.B1](#) Multi-Family Dwelling
 - i. Efficiency Units 400 square feet
 - ii. Two Bedroom Units 700 square feet
 - iii. More than Two Bedroom Units (An additional 100 square feet per bedroom)
 1. *The applicant is proposing a mixture of one-, two-, three-, and four-bedroom units that will meet the requirements of this Section.*
8. [Table 515-2-7.1. CN-2 Zoning District Dimensional Standards – Density, Lot Size, Coverage and Height Standards](#)
 - a. Lot Size - 5,000 SF - 15,000 SF (15,000+ SF requires CUP)
 - b. Density (minimum) - 4 – 12 DU/AC
 - c. Front Yard Setback – 25'
 - d. Side Yard Setback – 5'/20' corner
 - e. Rear Yard Setback – 25'

- i. *The applicant is requesting to subdivide the parcel with a lot size of a 263,102 SF and a lot width of 424.43' on Kitty Hawk Court from the centerline of Wright Street.*
- ii. *The proposed project meets all setback requirements.*
- iii. *The applicant is proposing 50 dwelling units on 6.04 acres of property which equates to 8.28 dwelling units per acre and satisfies the requirements of this Section.*

9. [Table 515-4-12.4 Parking Space Minimum](#)

- a. Single-Family, Attached Single-Family, Multi-Family Dwellings, and Commercial Uses the following applies in the CN-2 District.
 - i. Studios = one (1) space per dwelling unit
 - ii. One (1) bedroom = one and a half (1.5) spaces per dwelling unit
 - iii. Two (2) bedrooms = two (2) spaces per dwelling unit
 - iv. Three (3) bedrooms = Two and a half (2.5) spaces per dwelling unit
 - v. Each additional bedroom in a dwelling unit over three (3) bedrooms = + one half (.5) space per bedroom in a dwelling unit.
 - 1. *The applicant proposes (11) one-bedroom units, (21) two-bedroom units, (9) three-bedroom units, and (9) four-bedroom units which equates to a required (108) off-street parking spaces.*
 - 2. *The applicant proposes (102) off-street parking spaces and has requested a variance from this Section.*

10. [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 Appendix A: Table of Uses.
 - i. *Multi-family apartments are a conditional use in the CN-2 District.*
 - ii. *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.*
 - 1. *The applicant proposes a medium density multi-family development that satisfies the dwelling units per acre requirement of the CN-2 District.*
- b. The proposed use meets the regulations and standards established in this Ordinance.
 - i. *There are no special standards associated with this use.*
- 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.

- i. *The structure will not be dangerous, injurious, or noxious to the surrounding properties.*
 - d. The proposed use shall be sited, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
 - 1. *The applicant proposes to plant a landscape buffer between the data center and the multi-family residential building to limit noise and visual impacts.*
 - 2. *The landscaping requirements of the CN-2 District are greater than the surrounding properties zoned GI and the applicant must satisfy the landscaping requirements of Section 515-4-10 prior to issuance of the building permit.*
 - e. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
 - i. *A goal of the Brainerd Economic Development Authority is to evaluate the City's vacant industrial property for compatible non-industrial uses that would address current and future needs of the community.*
 - ii. *According to the [2020 Crow Wing County Workforce Housing Study](#), additional housing units are needed in Brainerd.*
 - iii. *A multi-family apartment with landscaping will enhance the visual impression of the neighborhood.*
 - iv. As required by [Section 515-4-2.C.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.
 - 1. *The exterior building has alternate siding and color patterns along with parapet's to add visual interest to the building and the proposed design will satisfy the requirements of this Section.*
 - f. The proposed use shall organize vehicular access and parking to minimize traffic congestion in a residential neighborhood.
 - i. *This property is surrounded by vacant property and industrial uses that do not utilize on street parking.*
 - ii. *The off-street parking plan should satisfy the needs of the residents as there are more three- and four-bedroom units in this building than typical apartments that allow for families with children.*
 - g. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.
 - i. **Economic Development Goal 1:** Support infill and redevelopment throughout Brainerd as a strategic component of growth.
 - 1. **Policy 1:** Drive infill development and redevelopment towards areas where current infrastructure is present, or places where high levels of blight or disinvestment exist.
 - a. *The Wright Street extension has readily available utilities to support a multi-family apartment.*

- ii. **Housing Goal 1:** Provide a diverse mix of housing choices for all stages of life, income ranges, and ownership/rental preferences.

- 1. Expand home ownership and rental opportunities through rehabilitation and new construction.

- a. *The expansion of residential units adds additional rental units to Brainerd with a mix of one-, two-, three-, and four-bedroom units in the proposed development.*

- 11. 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.

FINDINGS OF FACT – VARIANCE REQUEST

- 12. The applicant requested a variance from the height requirements and the allowable accessory structure square footage in the CN-2 District.

- a. Upon final submittal and review the applicant will not need a variance from the height requirements and the allowable accessory structure square footage in the CN-2 District.

- 13. The applicant has submitted a variance request from off-street parking requirements of the CN-2 District.

- a. Table 515-4-12.4 Parking Space Minimum

- i. Single-Family, Attached Single-Family, Multi-Family Dwellings, and Commercial Uses the following applies in the CN-2 District.

- 1. Studios = one (1) space per dwelling unit
 - 2. One (1) bedroom = one and a half (1.5) spaces per dwelling unit
 - 3. Two (2) bedrooms = two (2) spaces per dwelling unit
 - 4. Three (3) bedrooms = Two and a half (2.5) spaces per dwelling unit
 - 5. Each additional bedroom in a dwelling unit over three (3) bedrooms = + one half (.5) space per bedroom in a dwelling unit.

- a. *The applicant proposes (11) one-bedroom units, (21) two-bedroom units, (9) three-bedroom units, and (9) four-bedroom units which equates to a required (108) off-street parking spaces.*

- b. *The applicant proposes (102) off-street parking spaces and has requested a variance from this Section.*

- 1. Section 515-5-4.B.3, General Provisions and Evaluation Criteria. – Variances shall only be permitted:

- a. When they are in harmony with the general purposes and intent of the ordinance and:

- ii. *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*

1. The applicant proposes a medium density multi-family development that satisfies the dwelling units per acre requirement of the CN-2 District.

b. When the variances are consistent with the Comprehensive Plan.

1. **Policy 1:** Drive infill development and redevelopment towards areas where current infrastructure is present, or places where high levels of blight or disinvestment exist.

ii. **Housing Goal 1:** Provide a diverse mix of housing choices for all stages of life, income ranges, and ownership/rental preferences.

- a. *The expansion of residential units adds additional rental units to Brainerd with a mix of one-, two-, three-, and four-bedroom units in the proposed development.*

i. *The proposed apartment building has substantially more three- and four-bedroom units than typical multi-family developments so it can support families with young children that do not possess drivers licenses.*

2. Section 515-5-4.B.4, Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.;

- i. *The Brainerd EDA requested that the developer maximize their property design to allow for additional development of the property which reduces the ability to expand off-street parking.*

i. *This variance, if granted, will not substantially alter the character of the locality.*

Page 43 of 112

- i. *In this case, the practical difficulties are not an economic consideration.*
3. [Section 515-5-4. B.5](#), The Commission 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.
 - a. *Staff recommend no additional conditions.*

As of this writing, no one has contacted the Community Development Department for more information on these requests.

STAFF RECOMMENDATIONS

Hold a Public Hearing

Staff recommend approval of the Rezoning to CN-2 and the Future Land Use Map Amendment to Medium-High Density Residential for Tract A in the attached Survey.

Staff recommend approval of the Conditional Use Permits for the construction of a multi-family (5+ unit) apartment, to exceed the lot size maximum, and exceed the lot width in the CN-2 District for Tract A in the attached Survey with the following conditions:

- 1) Conveyance of the property from the City to the applicant/ developer must be completed.
- 2) The applicant shall have four years from the date of approval to initiate the project and utilize the Conditional Use Permits.
- 3) Prior to the issuance of a building permit the applicant shall submit a sound study to the City proving the development will be within MPCA noise requirements due to the adjacent data center.

Staff recommend approval of the Variance request from the off-street parking requirements in the CN-2 District to allow for 102 total spaces for Tract A in the attached Survey with the following conditions:

- 1) The applicant shall have four years from the date of approval to initiate the project and utilize the Variance.



Community Development Department

City Hall – 501 Laurel Street Brainerd, MN 56401

218-828-2307

CONDITIONAL USE/REZONING/VARIANCE APPLICATION

	RESIDENTIAL	COMMERCIAL
CONDITIONAL USE PERMIT	☐ (\$350.00)	☐ (\$500.00 + \$500.00 escrow deposit)
REZONING	☐ (\$350.00)	☐ (\$500.00)
VARIANCE	☐ (\$350.00)	☐ (\$500.00 + \$500.00 escrow deposit)
ZONING TEXT AMENDMENT	☐ (\$250.00)	☐ (\$400.00)

PROPERTY ADDRESS: 10320 Wright Street Brainerd MN 56401

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

Property Owner Name: Central Minnesota Housing Partnership, Inc and Brainerd HRA

Street Address: 24707 County RD 75 City: St. Augusta State: MN Zip Code 56301

Phone Number: (320) 259-0393 Fax: (320)259-9590 E-mail: deanna@cmhp.net

Applicant Name: (If different than Property Owner) _____

Street Address: _____ City: _____ State: _____ Zip Code: _____

Phone Number: _____ Fax: _____

Description of Request: The purpose of this request is to subdivide 5 acres from the 26 acre parcel and rezone the new parcel to a CN-2 (Contemporary Neighborhood 2) Zoning District to allow for the proposed 50 unit three story multifamily apartment. The CUP requests are for the construction of a multifamily (5+ unit) apartment, to exceed the lot size maximum, and exceed the lot width in the CN-2 District. The Variance requests are to exceed the allowable accessory structure square footage, and to not meet the off street parking space requirement. See attached construction plans.

Property Owner Signature

Date

(Please print name)

Deanna Hemmesch & Eric Charpentier
Applicant Signature

05/06/2024

Date

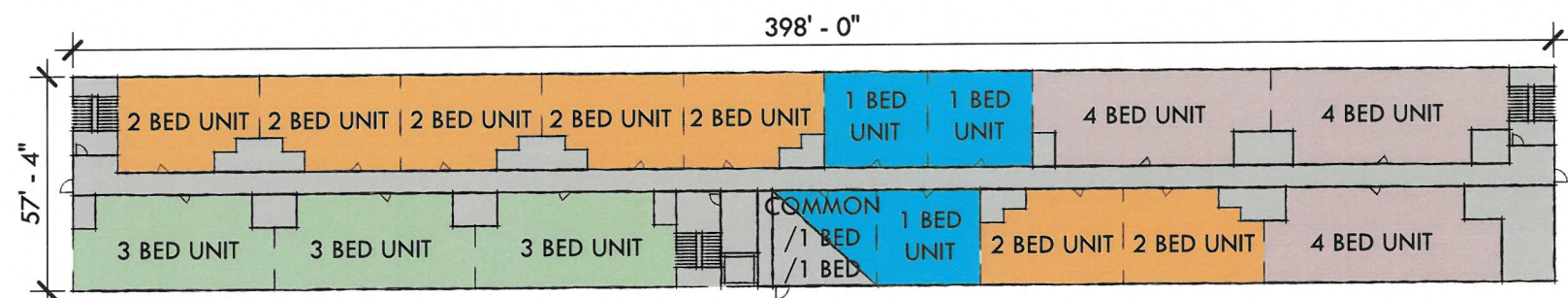
Deanna Hemmesch & Eric Charpentier

(Please print name)

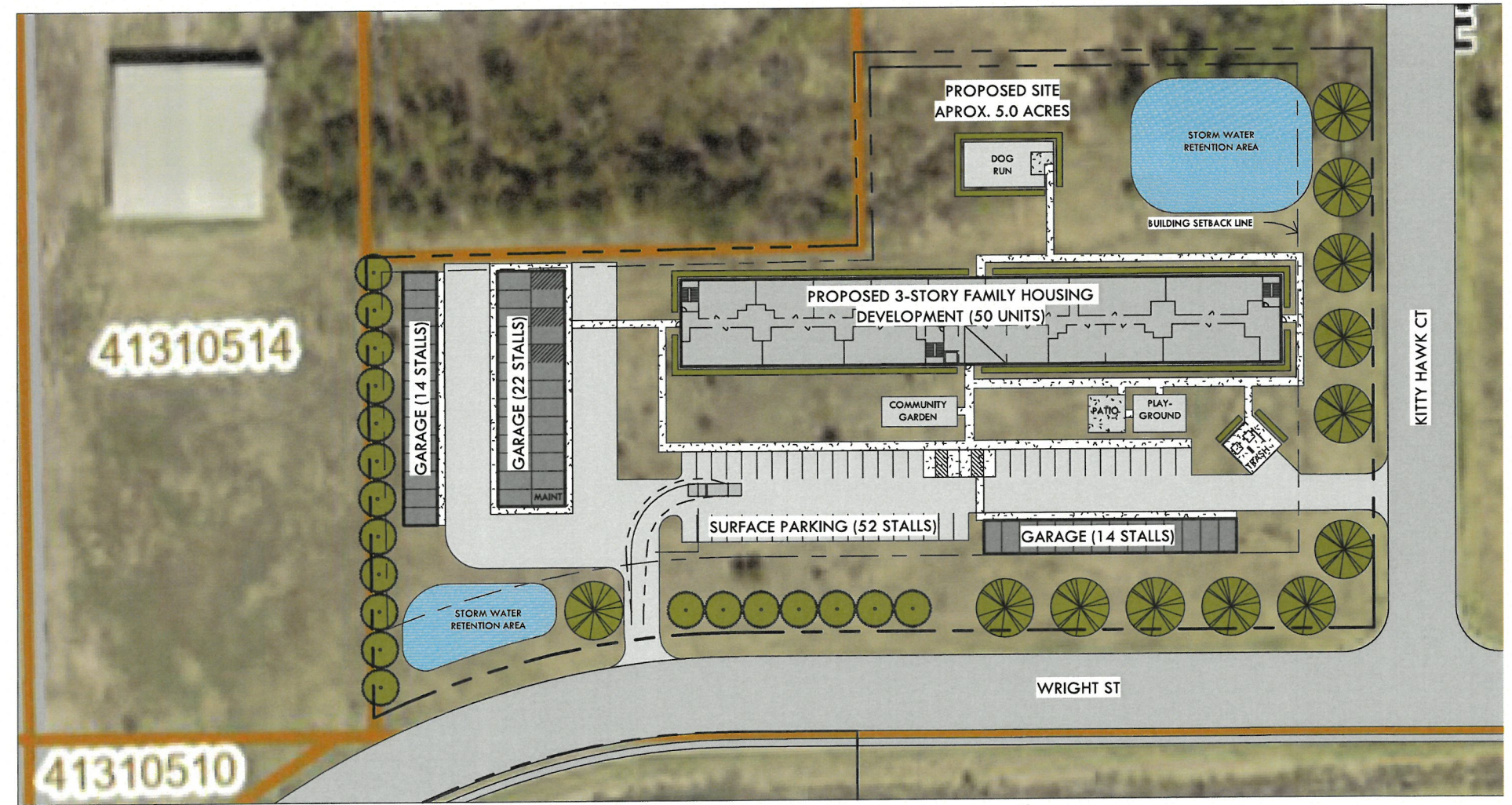
(OVER)



FRONT ELEVATION



50 UNIT 3 STORY APARTMENT TYPICAL FLOORPLAN

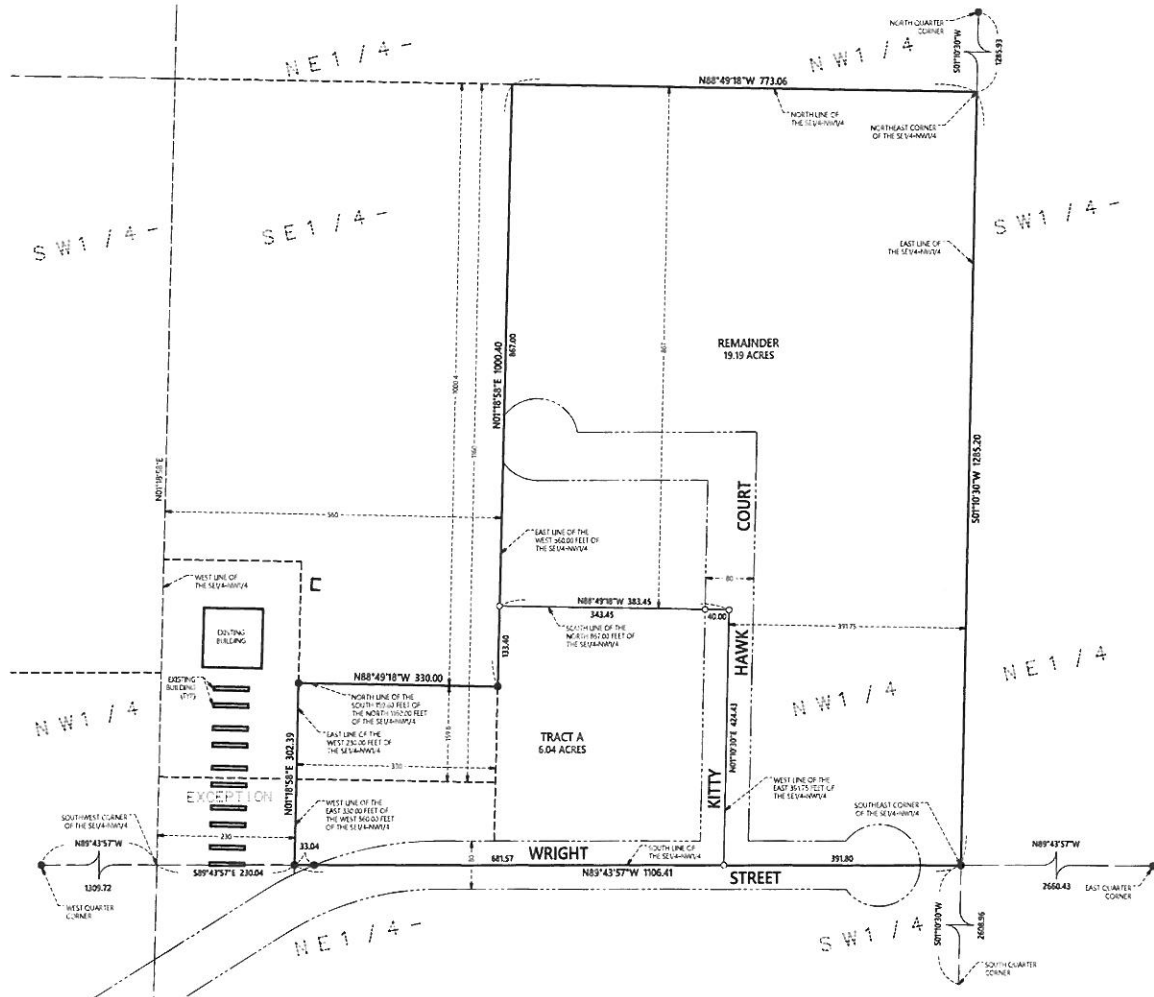


SITE PLAN - WRIGHT ST - SITE A

UNIT MATRIX

Unit Size	1st Flr	2nd Flr	3rd Flr	Total	% of total	Max/Min
1 Bed	3	4	4	11	22%	25% Max
2 Bed	7	7	7	21	42%	
3 Bed	3	3	3	9	36%	33% Min
4 Bed	3	3	3	9		
Total	16	17	17	50		

CERTIFICATE OF SURVEY
PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER,
SECTION 31, TOWNSHIP 45, RANGE 30,
CROW WING COUNTY, MINNESOTA



LEGAL DESCRIPTIONS

Existing Legal Description (According to Doc. No. 871290)

The South 159.60 feet of the North 1160.00 feet of the East 330.00 feet of the West 560.00 feet of the Southeast Quarter of the Northwest Quarter of Section 31, Township 45 North, Range 30 West, Crow Wing County, Minnesota.

Existing Legal Description (According to Doc. No. 878526)

This Southeast Quarter of the Northwest Quarter, Section 31, Township 45, Range 30, except the North 1160 feet of the West 560 feet thereof.

Existing Legal Description (According to Part of Doc. No. 896659)(Exception Document)

The West 230.00 feet of the Southeast Quarter of the Northwest Quarter of Section 31, Township 45 North, Range 30 West, Crow Wing County, Minnesota, EXCEPT the North 1160.00 feet thereof.

Proposed Legal Description (Tract A)

That part of the Southeast Quarter of the Northwest Quarter (SE1/4-NW1/4), Section 31, Township 45, Range 30, Crow Wing County, Minnesota, described as follows: Commencing at the southwest corner of said SE1/4-NW1/4; thence South 89 degrees 43 minutes 57 seconds East, bearing based on the Crow Wing County Coordinate Database NAD 83, 230.04 feet along the south line of said SE1/4-NW1/4 to the point of beginning of the tract to be described; thence continuing South 89 degrees 43 minutes 57 seconds East 714.61 feet along said south line of the SE1/4-NW1/4 to the west line of the East 391.75 feet of said SE1/4-NW1/4; thence North 01 degree 10 minutes 30 seconds East 424.43 feet along said west line of the East 391.75 feet of the SE1/4-NW1/4 to its intersection with the south line of the North 867.00 feet of said SE1/4-NW1/4; thence North 88 degrees 49 minutes 18 seconds West 330.00 feet along said south line of the North 867.00 feet of the SE1/4-NW1/4 to its intersection with the east line of the West 560.00 feet of said SE1/4-NW1/4; thence South 01 degree 18 minutes 50 seconds West 133.40 feet along said east line of the West 560.00 feet of the SE1/4-NW1/4 to its intersection with the south line of the North 867.00 feet of said SE1/4-NW1/4; thence North 88 degrees 49 minutes 18 seconds West 330.00 feet along said south line of the North 867.00 feet of the SE1/4-NW1/4 to its intersection with the east line of the West 230.00 feet of said SE1/4-NW1/4; thence South 01 degree 10 minutes 30 seconds West 302.39 feet along said east line of the West 230.00 feet of the SE1/4-NW1/4 to the point of beginning.

Subject to the right of way for Wright Street.

Subject to the right of way for Kitty Hawk Court.

Subject to other easements, restrictions or reservations of record, if any.

Proposed Legal Description (Remainder)

That part of the Southeast Quarter of the Northwest Quarter (SE1/4-NW1/4), Section 31, Township 45, Range 30, Crow Wing County, Minnesota, described as follows: Commencing at the southwest corner of said SE1/4-NW1/4; thence South 89 degrees 43 minutes 57 seconds East, bearing based on the Crow Wing County Coordinate Database NAD 83, 944.65 feet along the south line of said SE1/4-NW1/4 to its intersection with the west line of the East 391.75 feet of said SE1/4-NW1/4; the point of beginning of the tract to be described; thence North 01 degree 10 minutes 30 seconds East 424.43 feet along said west line of the East 391.75 feet of the SE1/4-NW1/4 to its intersection with the south line of the North 867.00 feet of said SE1/4-NW1/4; thence North 88 degrees 49 minutes 18 seconds West 330.00 feet along said south line of the North 867.00 feet of the SE1/4-NW1/4 to its intersection with the east line of the West 560.00 feet of said SE1/4-NW1/4; thence North 01 degree 18 minutes 50 seconds East 887.00 feet along said east line of the West 560.00 feet of the SE1/4-NW1/4 to its intersection with the north line of said SE1/4-NW1/4; thence South 88 degrees 49 minutes 18 seconds East 773.06 feet along said north line of the SE1/4-NW1/4 to the northeast corner of said SE1/4-NW1/4; thence South 01 degree 10 minutes 30 seconds West 1265.20 feet along the east line of said SE1/4-NW1/4 to the southeast corner of said SE1/4-NW1/4; thence North 89 degrees 43 minutes 57 seconds West 391.80 feet along said south line of the SE1/4-NW1/4 to the point of beginning.

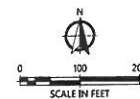
Subject to the right of way for Wright Street.

Subject to the right of way for Kitty Hawk Court.

Subject to other easements, restrictions or reservations of record, if any.

SURVEY NOTES

- Property Owner of subject property: The City of Brainerd
- The E911 address for the subject property is: 10320 Wright Street, Brainerd, MN 56401.
- Property Identification Number: 41310501
- Total Property Area: 25.23 Acres.
- This survey was completed without the benefit of a title commitment or opinion. There may be easements or other limiting factors not shown on this survey which affect the subject property.



ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE CROW WING COUNTY COORDINATE DATABASE NAD 83

- DENOTES FOUND IRON MONUMENT
- DENOTES 1/2 INCH DIAMETER BY 18 INCH LONG IRON PIPE SET AND MARKED BY RLS #59005

WIDSETH
ARCHITECTS • ENGINEERS • SURVEYORS

DRAWN BY
CHECKED BY
CNC

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
COURTNEY S. SANCHEZ
LIC. NO. 19003
DATE: 05/12/2023

DATE

AMENDMENT DESCRIPTION

PREPARED FOR

CITY OF BRAINERD

PROJECT # 2026-11061

**ORDINANCE
NO. 15XX**

**AN ORDINANCE AMENDING THE ZONING MAP OF
THE CITY OF BRAINERD AND SECTION 515-3 OF THE ZONING CODE**

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

SECTION ONE: The Zoning Map of the City of Brainerd is hereby amended by changing the zoning designation of the property below from GI (General Industrial) to a CN-2 (Contemporary Neighborhood 2) District:

PIN 41310501 (Tract A)

That part of the Southeast Quarter of the Northwest Quarter (SE1/4-NW1/4), Section 31, Township 45, Range 30, Crow Wing County, Minnesota, described as follows: Commencing at the southwest corner of said SE1/4-NW1/4; thence South 89 degrees 43 minutes 57 seconds East, bearing based on the Crow Wing County Coordinate Database NAD 83, 230.04 feet along the south line of said SE1/4-NW1/4 to the point of beginning of the tract to be described; thence continuing South 89 degrees 43 minutes 57 seconds East 714.61 feet along said south line of the SE1/4-NW1/4 to the west line of the East 391.75 feet of said SE1/4-NW1/4; thence North 01 degree 10 minutes 30 seconds East 424.43 feet along said west line of the East 391.75 feet of the SE1/4-NW1/4 to its intersection with the south line of the North 867.00 feet of said SE1/4-NW1/4; thence North 88 degrees 49 minutes 18 seconds West 383.45 feet along said south line of the North 867.00 feet of the SE1/4-NW1/4 to its intersection with the east line of the West 560.00 feet of said SE1/4-NW1/4; thence South 01 degree 18 minutes 58 seconds West 133.40 feet along said east line of the West 560.00 feet of the SE1/4-NW1/4 to its intersection with the south line of the North 800.40 feet of said SE1/4-NW1/4; thence North 88 degrees 49 minutes 18 seconds West 330.00 feet along said south line of the North 800.40 feet of the SE1/4-NW1/4 to its intersection with the east line of the West 230.00 feet of said SE1/4-NW1/4; thence South 01 degree 18 minutes 58 seconds West 302.39 feet along said east line of the West 230.00 feet of the SE1/4-NW1/4 to the point of beginning.

Subject to the right of way for Wright Street.

Subject to the right of way for Kitty Hawk Court.

Subject to other easements, restrictions or reservations of record, if any.

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

Adopted this _____ day of _____, 2026

MIKE O'DAY
President of the Council

Approved this _____ day of _____, 2026

DAVE BADEAUX
Mayor

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator

Published: One Time – _____

RESOLUTION

NO. xx:25

RESOLUTION APPROVING COMPREHENSIVE PLAN/FUTURE LAND USE MAP AMENDMENT

BE IT RESOLVED by the City Council of the City of Brainerd, Crow Wing County, Minnesota as follows:

WHEREAS, the City of Brainerd approved a Comprehensive Plan (the Plan) in 2021, and

WHEREAS, the Plan included a Future Land Use Map (the Map) to guide Brainerd's growth and development, and

WHEREAS, the City Council has designated as one of the duties of the Planning commission to write and revise its Plan when it finds need to do so; and

WHEREAS, a parcel along Oak Street with PIN 41310501 (Tract A) and is legally described as:

That part of the Southeast Quarter of the Northwest Quarter (SE1/4-NW1/4), Section 31, Township 45, Range 30, Crow Wing County, Minnesota, described as follows: Commencing at the southwest corner of said SE1/4-NW1/4; thence South 89 degrees 43 minutes 57 seconds East, bearing based on the Crow Wing County Coordinate Database NAD 83, 230.04 feet along the south line of said SE1/4-NW1/4 to the point of beginning of the tract to be described; thence continuing South 89 degrees 43 minutes 57 seconds East 714.61 feet along said south line of the SE1/4-NW1/4 to the west line of the East 391.75 feet of said SE1/4-NW1/4; thence North 01 degree 10 minutes 30 seconds East 424.43 feet along said west line of the East 391.75 feet of the SE1/4-NW1/4 to its intersection with the south line of the North 867.00 feet of said SE1/4-NW1/4; thence North 88 degrees 49 minutes 18 seconds West 383.45 feet along said south line of the North 867.00 feet of the SE1/4-NW1/4 to its intersection with the east line of the West 560.00 feet of said SE1/4-NW1/4; thence South 01 degree 18 minutes 58 seconds West 133.40 feet along said east line of the West 560.00 feet of the SE1/4-NW1/4 to its intersection with the south line of the North 800.40 feet of said SE1/4-NW1/4; thence North 88 degrees 49 minutes 18 seconds West 330.00 feet along said south line of the North 800.40 feet of the SE1/4-NW1/4 to its intersection with the east line of the West 230.00 feet of said SE1/4-NW1/4; thence South 01 degree 18 minutes 58 seconds West 302.39 feet along said east line of the West 230.00 feet of the SE1/4-NW1/4 to the point of beginning.

Subject to the right of way for Wright Street.

Subject to the right of way for Kitty Hawk Court.

Subject to other easements, restrictions or reservations of record, if any.

(the Area) is identified as Industrial in the Map, and

WHEREAS, the property owner requested an amendment to the Map for this Area to identify it as Medium-High Density, and

WHEREAS, on May 20th, 2026, the Planning Commission recommends to the City Council that the Map change should be approved based on the findings of fact.

NOW THEREFORE, BE IT HEREBY RESOLVED that the City Council has received the Planning Commission recommendation, reviewed the information associated with the change, and approves the change for the reasons cited in the findings of fact.

Adopted this __ day of ____ 2026

MIKE O'DAY
President of the Council

Approved this __ day of ____ 2026

DAVE BADEAUX
Mayor

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Deanna Hemmesch on behalf of Central Minnesota Housing Partnership Inc. and the Brainerd Housing and Redevelopment Authority has submitted applications for a Rezoning, Conditional Use Permits and Variance Requests at 10320 Wright Street, Brainerd for the construction of a multifamily apartment. The property included in this application is described as:

SE1/4 OF NW1/4 EXC N 1160 FT OF W 560 FT THEREOF. & INCL S 159.6 FT OF N 1160 FT OF E 330 FT OF W 560 FT OF SENW. & ALSO EXC P.I.N. 41310501

The property is currently zoned GI (General Industrial) District and [Appendix A: Table of Uses](#) of the Zoning Code does not allow for multi-family attached dwelling units. The purpose of this request is to subdivide 5 acres from the 26-acre parcel and rezone the new parcel to a CN-2 (Contemporary Neighborhood 2) Zoning District to allow for the proposed 50-unit three-story multi-family apartment. The CUP requests are for the construction of a multi-family (5+ unit) apartment, to exceed the lot size maximum, and exceed the lot width in the CN-2 District. The Variance requests are to exceed the allowable accessory structure square footage of the CN-2 District and to not meet the off-street parking space requirement. 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, May 20th, 2026, in the Brainerd City Hall Council Chambers, 501 Laurel Street, to consider these requests.

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

Dated this 6th day of May, 2026



James L. Kramvik
Community Development Director

Publication Date: May 9th, 2026

JUST FOR KRYPTO

1640 Kitty Hawk Ct.
Brainerd, MN 56401

May 18, 2026

James L. Kramvik
Community Development Director
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

cc: Brainerd Planning Commission
Brainerd City Council

RE: Formal Objection to Rezoning, Conditional Use Permit, and Variance Applications at 10320 Wright Street, Brainerd (P.I.N. 41310501) — Public Hearing, May 20, 2026

Dear Director Kramvik and Members of the Planning Commission:

Just For Krypto operates a 24-hour-per-day cryptocurrency mining facility immediately adjacent to the proposed rezoning area, on parcels **41310503, 41310510, and 41310514**. We have operated continuously at this location since 2022. We submit this letter as a formal objection to the applications filed by Deanna Hemmesch on behalf of Central Minnesota Housing Partnership Inc. and the Brainerd Housing and Redevelopment Authority for the rezoning of a 5-acre subdivision of P.I.N. 41310501 from General Industrial (GI) to Contemporary Neighborhood 2 (CN-2), together with the associated conditional use permits and variances, and we request that the Planning Commission recommend denial.

Our objection is grounded in Minnesota state noise rules, which assign a mandatory duty to the City of Brainerd to prevent the establishment of land uses that will immediately violate state noise standards. As explained below, approval of these applications would place the City in conflict with that duty, would create immediate noncompliance issues for our legally established industrial operation, and would predictably generate noise complaints from the very residents the project is intended to house.

1. Our Operation and Standing to Object

Just For Krypto operates an industrial cryptocurrency mining facility consisting of multiple air-cooled ASIC container rows located on parcel 41310514, with related operations on parcels 41310503 and 41310510. The white structures visible in aerial imagery along the south side of Wright Street, immediately south and west of the proposed rezoning area, are our 60-foot air-cooled ASIC container rows. These containers operate continuously, 24 hours per day, 7 days per week, 365 days per year. Continuous operation is not optional; it is the nature of the industry.

The cooling fans on air-cooled ASIC mining containers are the dominant noise source. Industry-standard air-cooled ASIC mining operations produce sustained broadband fan noise that is

characteristic of large-scale data center and mining infrastructure. Our facility was sited at this location in 2022 specifically because the surrounding parcels were and are zoned General Industrial, consistent with the character of the Wright Street and Industrial Road corridor.

The proposed 50-unit, three-story multi-family apartment building would be constructed directly adjacent to our operations and across Wright Street and Kitty Hawk Court from our operations, well within the area in which our equipment is plainly audible.

2. Minnesota's Noise Standard Is Receiver-Based

Minnesota Rules Chapter 7030, adopted under Minn. Stat. § 116.07, establishes the State noise standards that apply throughout Minnesota. These standards are *receiver-based*, meaning the applicable noise limit is determined by the land use of the person who hears the noise, not by the zoning of the source. This is set out in Minn. R. 7030.0050, subp. 1, and is summarized by the Minnesota Pollution Control Agency in *A Guide to Noise Control in Minnesota* (MPCA, November 2015, p. 2), which states:

"Noise area classifications (NAC) are based on the land use at the location of the person who hears the noise, which does not always correspond with the zoning of an area. Therefore, noise from an industrial facility near a residential area is held to the NAC 1 standards if it can be heard on a residential property."

Under Minn. R. 7030.0040, subp. 2, the nighttime noise limits applicable to a residential (NAC 1) receiver are:

1. **L₁₀ = 55 dBA** (not exceeded more than 10% of the hour, or six minutes); and
2. **L₅₀ = 50 dBA** (not exceeded more than 50% of the hour, or thirty minutes).

Nighttime is defined by Minn. R. 7030.0020, subp. 10, as the hours from 10:00 p.m. to 7:00 a.m. Daytime limits are L₁₀ = 65 dBA and L₅₀ = 60 dBA. These limits apply at the location of normal outdoor human activity nearest to the noise source (Minn. R. 7030.0060, subp. 1).

Today, the parcels surrounding our facility are NAC 3 (industrial), and the relevant nighttime limits are L₁₀ = 80 dBA and L₅₀ = 75 dBA. The moment the proposed 50-unit apartment building is occupied, every property line of our facility that faces the new development becomes the boundary of an NAC 1 receiver, and the applicable nighttime standards drop by 25 dBA. A 25 dBA reduction is not a marginal adjustment. Under the MPCA guide (p. 9), a change of 10 dBA is perceived as a halving of loudness; a 20 dBA change is perceived as a reduction to one-fourth. The standard would tighten by significantly more than that, instantaneously, on the day the first tenant moves in.

Our operations have not changed. Our equipment has not changed. What would change is the legal noise standard against which we are measured — not because of anything we have done, but because the City would have approved a new sensitive receiver next to a long-established industrial use.

3. The City Has an Affirmative Duty Under Minn. R. 7030.0030

Minn. R. 7030.0030 states, in full:

“No person may violate the standards established in part 7030.0040, unless exempted by Minnesota Statutes, section 116.07, subdivision 2a. Any municipality having authority to regulate land use shall take all reasonable measures within its jurisdiction to prevent the establishment of land use activities listed in noise area classification (NAC) 1, 2, or 3 in any location where the standards established in part 7030.0040 will be violated immediately upon establishment of the land use.”

This rule is not advisory. It uses the word “shall.” It places an affirmative obligation on the City of Brainerd, as the municipality with authority to regulate land use at this location, to take all reasonable measures to prevent the establishment of an NAC 1 land use where state noise standards will be violated immediately upon its establishment.

A 50-unit residential apartment building is unambiguously an NAC 1 land use. It includes household units, outdoor activity areas, and overnight lodging. Multiple independent industrial noise sources — our 24/7 ASIC mining operations, and the other established industrial operations along Wright Street and Industrial Road — are already in continuous nighttime operation at the proposed location. The MPCA's own guidance, the language of Minn. R. 7030.0030, and basic acoustics all point to the same conclusion: the City must take reasonable measures to prevent this land use from being established here. The most direct reasonable measure available to the City is to deny the rezoning.

We respectfully note that the burden under Minn. R. 7030.0030 is on the municipality, not on the existing industrial operator. The rule does not contemplate a process in which a lawful industrial use is expected to retrofit, relocate, or curtail operations to accommodate a newly-introduced residential use. It contemplates the City preventing the residential use from being established in the wrong place to begin with.

4. Additional Concerns

Inconsistency with the surrounding land use pattern. The proposed rezoning carves a 5-acre residential parcel out of a 26-acre General Industrial parcel that is bordered on its west and south sides by an established industrial corridor including parcels 41310502, 41310503, 41310510, 41310514, 41310522, and 41310531. Inserting a single residential parcel into the middle of a contiguous industrial district is inconsistent with the surrounding pattern and with the existing GI designation that the City established for this corridor.

The stack of requested entitlements. The application does not simply request a rezoning. It also requests conditional use permits to exceed the CN-2 lot size maximum, to exceed the CN-2 lot width, and to allow 5+ unit multi-family use in CN-2; *and* variances to exceed the CN-2 accessory structure square footage and to not meet the off-street parking requirement. Each of these requests is, on its face, an admission that this 5-acre subdivision does not fit the CN-2 district the applicant is asking the City to apply to it. Under Minnesota law, variances require “practical difficulties” that are unique to the property and not created by the applicant. Here, the difficulties the applicant cites are direct consequences of selecting an industrial parcel and asking that it be rezoned to a district whose dimensional and parking standards the parcel cannot meet. That is a self-created hardship.

Predictable complaints from future residents. If this development is approved and constructed, the predictable result is that future tenants — many of whom will be Brainerd HRA residents — will experience continuous industrial noise and will file noise complaints against our facility and against our industrial neighbors. The MPCA will be obligated to investigate. The City of Brainerd will be

drawn into ongoing enforcement disputes that it had the opportunity to prevent at this stage. The applicant's parking variance further suggests that some resident vehicles will park on-street along Wright Street and Kitty Hawk Court, increasing the residential footprint of activity even closer to our operations.

There are better sites in Brainerd for this housing. We are not opposed to multi-family housing in Brainerd. We are opposed to siting a 50-unit NAC 1 land use directly adjacent to a 24-hour industrial operation that has been lawfully established at this location for nearly four years, in a corridor that the City's own zoning map identifies as General Industrial.

5. Request

For the reasons set out above, Just For Krypto respectfully requests that the Brainerd Planning Commission:

3. Recommend denial of the requested rezoning of the 5-acre subdivision of P.I.N. 41310501 from GI to CN-2;
4. Recommend denial of the associated conditional use permits for multi-family use, lot size maximum, and lot width;
5. Recommend denial of the variances for accessory structure square footage and off-street parking; and
6. Enter this letter into the public record of the May 20, 2026 hearing.

We further request that this letter be transmitted to the Brainerd City Council in the event the application advances to a Council vote.

Thank you for your time and for your consideration of these comments. We are available to answer questions from the Planning Commission, City staff, or the applicant, and we plan to attend the May 20, 2026 hearing in person.

Respectfully submitted,

Bret Mattheisen
Director of Technology
Just For Krypto
1640 Kitty Hawk Ct.
Brainerd, MN 56401

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: May 20th, 2026

RE: Floodplain Overlay District Memo

INTRODUCTION

This ordinance regulates development in the flood hazard areas of Brainerd. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote public health, safety, and general welfare by minimizing these losses and disruptions.

This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

PROPOSED ORDINANCE

The Zoning Code update did not include the Floodplain Overlay District. The City is required to include Floodplain regulations in its City Code and staff have been working with the MN DNR to add these regulations back into our zoning code along with all updates pertaining to state statute requirements.

Floodplain regulations are non-negotiable. The DNR included recommended higher standards in the proposed regulations called out in blue lettering. The Planning Commission could decide to remove the higher standards.

STAFF RECOMMENDATION

Review the proposed regulations and direct staff to hold a public hearing at the June 17th meeting.

SECTION 515-2-24 FLOODPLAIN OVERLAY DISTRICTS

515-2-24 A:	STATUTORY AUTHORIZATION AND PURPOSE
515-2-24 B:	DEFINITIONS
515-2-24 C:	JURISDICTION AND DISTRICTS
515-2-24 D:	REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS
515-2-24 E:	FLOODWAY DISTRICT
515-2-24 F:	GENERAL FLOODPLAIN DISTRICT
515-2-24 G:	SUBDIVISION STANDARDS
515-2-24 H:	PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITIES, ROADS, BRIDGES, AND RAILROADS
515-2-24 I:	MANUFACTURED HOMES AND RECREATIONAL VEHICLES
515-2-24 J:	ADMINISTRATION
515-2-24 K:	NONCONFORMITIES
515-2-24 L:	VIOLATIONS AND PENALTIES
515-2-24 M:	AMENDMENTS

A. STATUTORY AUTHORIZATION AND PURPOSE

1. **Statutory Authorization.** This floodplain ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F; Minnesota Rules, parts 6120.5000 – 6120.6200; the rules and regulations of the National Flood Insurance Program (NFIP) in 44 CFR § 59 to 78; and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
2. **Purpose.**
 - a. This ordinance regulates development in the flood hazard areas of the City of Brainerd. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote public health, safety, and general welfare by minimizing these losses and disruptions.
 - b. This ordinance is adopted in the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.
 - c. This ordinance is adopted to maintain eligibility in the National Flood Insurance Program.
 - d. This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

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3. **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this ordinance take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
4. **Warning and Disclaimer of Liability.** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of the City of Brainerd or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
5. **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

DEFINITIONS

- B.
1. **Definitions.** Unless specifically defined, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
 - a. **Accessory Structure.** A structure, as defined in this ordinance, that is on the same parcel of property as, and is incidental to, the principal structure or use; an accessory structure specifically excludes structures used for human habitation.
 - b. **Base Flood.** The flood having a one-percent chance of being equaled or exceeded in any given year. "Base flood" is synonymous with the term "regional flood" used in Minnesota Rules, part 6120.5000.
 - c. **Base Flood Elevation (BFE).** The elevation of the base flood, regional flood, or one-percent annual chance flood. The term "base flood elevation" is used in the flood insurance study.
 - d. **Basement.** Any area of a structure, including crawl spaces, having its floor subgrade (below ground level) on all sides, regardless of the depth of excavation below ground level.
 - e. **Building.** See Structure.
 - f. **Channel.** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.
 - g. **Conditional Use.** A land use or development that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
 - h. **Critical Facilities.** Buildings and structures that contain essential facilities and services necessary for emergency response and recovery, or that pose a substantial risk to the public in the event of failure, disruption of function, or damage by flooding. Specifically, this includes facilities identified as Flood Design Class 4 in ASCE 24-14, Flood Resistant Design and Construction, as amended. Examples include health care facilities, facilities required for emergency response, power generating stations, communications towers, or electrical substations
 - i. **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
 - j. **Equal Degree of Encroachment.** A method of determining the location of floodway boundaries so that floodplain

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lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

- k. FEMA. Federal Emergency Management Agency.
- l. Farm Fence. An open type of fence of posts and horizontally run wire, further specified in Minnesota Statutes, section 344.02, Subd. 1(a-d).
- m. Flood. A temporary rise in the stream flow or water surface elevation from any source that results in the inundation of normally dry land areas.
- n. Flood Fringe. The portion of the one-percent annual chance floodplain located outside of the floodway. [This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.](#)
- o. Flood Insurance Rate Map (FIRM). An official map on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- p. Flood Insurance Study (FIS). The study referenced in Section C.2, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
- q. Floodplain. The beds, channel and the areas adjoining a wetland, lake or watercourse, or other source which have been or hereafter may be inundated by the base flood.
- r. Floodproofing. A combination of structural and non-structural additions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- s. Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.
- t. [General Floodplain. Those floodplains designated on the Flood Insurance Rate Maps referenced in Section C.2, but that do not have a delineated floodway.](#)
- u. [Light Duty Truck. Any motor vehicle that has all three of the following:](#)
 - i. [8,500 pounds Gross Vehicle Weight Rating or less;](#)
 - ii. [vehicle curb weight of 6,000 pounds or less; and](#)
 - iii. [basic vehicle frontal area less than 45 square feet.](#)
- v. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3.
- w. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
- x. New Construction. Structures for which the start of construction commenced on or after the effective date of an adopted floodplain management regulation, and includes any subsequent improvements to such structures.

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- y. Principal Structure. The main building or other structure on a lot that is utilized for the property's principal use.
- z. Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- aa. Recreational Vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Those vehicles not meeting this definition shall be considered a structure for the purposes of this ordinance. For the purposes of this ordinance, the term "recreational vehicle" is synonymous with the term "travel trailer/travel vehicle."
- bb. Regulatory Flood Protection Elevation (RFPE). An elevation that is one foot above the elevation of the base flood plus any increases in the water surface elevation caused by encroachments on the floodplain that result from designation of a floodway. These increases in water surface elevations are typically identified in the Floodway Data Tables, found in the Flood Insurance Study.
- cc. Repetitive Loss. Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- dd. Special flood hazard area (SFHA). An area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.
- ee. Stage Increase. Any increase in the water surface elevation during the one-percent annual chance flood caused by encroachments on the floodplain.
- ff. Start of Construction. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- gg. Structure. A roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Recreational vehicles not considered travel ready, as detailed in Section J.2b., shall also be considered a structure for the purposes of this ordinance.
- hh. Subdivision. Land that has been divided for the purpose of sale, rent, or lease, including planned unit developments.
- ii. Substantial Damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- jj. Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of

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the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- i. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - ii. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is defined in 44 CFR § 59.1.
- kk. Variance. “Variance” means the same as that defined in 44 CFR § 59.1 and Minnesota Statutes, Section 462.357, Subd. 6(2).
- ll. Violation. “Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation of until such time as that documentation is provided.
- mm. Watercourse. A channel in which a flow of water occurs either continuously or intermittently in a definitive direction. The term applies to either natural or artificially constructed channels

C. JURISDICTION AND DISTRICTS

1. **Lands to Which Ordinance Applies.** This ordinance applies to all lands within the jurisdiction of the City of Brainerd within the Special Flood Hazard Areas (SFHAs) identified on the Flood Insurance Rate maps identified in Section C.2. Areas within the SFHA are within one of three districts: the Floodway, Flood Fringe, or General Floodplain.
 - a. The Floodway, Flood Fringe or General Floodplain Districts are overlay districts. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, the more restrictive standards will apply.
 - b. These regulations apply to all areas within the SFHA. If areas below the Base Flood Elevation (BFE) extend beyond the mapped SFHA based on actual field conditions, the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain and these regulations apply to the outer boundary of the one-percent annual chance floodplain.
 - c. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.
2. **Incorporation of Maps by Reference.** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this ordinance. The attached material includes the Flood Insurance Study for Crow Wing County, Minnesota, and Incorporated Areas, dated August 15, 2017, and the Flood Insurance Rate Map panel numbers 27035C0414C, 27035C0418C, 27035C0419C, 27035C0425C, 27035C0526C, 27035C0527C, 27035C0528C, 27035C0529C, 27035C0531C, 27035C0550C, all dated August 15, 2017, all prepared by the Federal Emergency Management Agency. These materials are on file in City Hall.
3. **Districts**
 - a. Floodway District. Those areas within Zone AE delineated within floodway areas as shown on the Flood Insurance Rate Maps referenced in Section C.2 and those areas within Zone A determined to be located in the floodway based on the delineation methods in Section G.4.
 - b. Flood Fringe District. Those areas within Zone AE located outside of the delineated floodway as shown on the

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Flood Insurance Rate Maps referenced in Section C.2, and those areas within Zone A determined to be located in the flood fringe based on the delineation methods in Section G.4. [This district shall be extended laterally to the 0.2-percent annual chance floodplain, where mapped.](#)

- c. General Floodplain District. Those areas within Zone A or AE that do not have a floodway delineated as shown on the Flood Insurance Rate Maps referenced in Section C.2.
- 4. **Annexations.** The Flood Insurance Rate Map panels referenced in Section C.2 may include floodplain areas that lie outside of the corporate boundaries of the City of Brainerd at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Brainerd after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation. Annexations into panels not referenced in Section C.2 require ordinance amendment in accordance with Section N.
- 5. **Municipal Boundary Adjustments.** The Flood Insurance Rate Map panels referenced in Section C.2 apply countywide. If at any point any lands come under the jurisdiction of another local government, the following shall apply:
 - a. City adjustments of corporate boundaries, including but not limited to annexations and detachments, shall shift floodplain administrative authority of all affected lands immediately upon the date of the boundary adjustment occurring. Cities retain jurisdiction for all incorporated lands, and the County retains jurisdiction under this ordinance on all unincorporated lands.

REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

- D. 1. **Permit Required.** A permit must be obtained from the Zoning Administrator to verify compliance with all applicable standards outlined in this ordinance prior to the following uses or activities:
 - a. The erection, addition, modification, maintenance, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Section L.1c.
 - b. The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction. [Farm fences, as defined in Section B of this ordinance, are not considered to be an obstruction, and as such, do not require a permit.](#)
 - c. The change or expansion of a nonconforming use.
 - d. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - e. The placement of fill, riprap, excavation, utilities, on-site sewage treatment systems, or other service facilities.
 - f. The storage of materials or equipment, in conformance with Section D.2x.
 - g. Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources, unless a significant area above the ordinary high water level is also to be disturbed.
 - h. Any other type of "development," as defined in Section B of this ordinance.
- 2. **Minimum Development Standards**
 - a. All development must:
 - i. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement

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resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- ii. Be constructed with materials and equipment resistant to flood damage;
- iii. Be constructed by methods and practices that minimize flood damage;
- iv. Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
- v. Be reasonably safe from flooding and consistent with the need to minimize flood damage;
- vi. Be assured to provide adequate drainage to reduce exposure to flood hazards;
- vii. Not be detrimental to uses in adjoining areas; and
- viii. Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- ix. Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.
- x. Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE), floodproofed, or protected by other measures as approved by the Zoning Administrator. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in Minnesota Statutes, Section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided. For projects not requiring approvals by the Minnesota Pollution Control Agency, adequate safeguards must be approved by the Zoning Administrator prior to issuance of a permit.
- xi. Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.

FLOODWAY DISTRICT

1. **Permitted Uses in Floodway.** Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. No structures, as defined in Section B, are allowed in the Floodway District, except as provided within subsection E.1e. The following uses and activities may be allowed with a permit, subject to the standards in Section E.2:
 - a. Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.
 - b. Roads, driveways, railroads, trails, bridges, and culverts.
 - c. Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.
 - d. Grading, filling, land alterations, and shoreline stabilization projects.
 - e. Structures accessory to the uses detailed in Sections E.1a and E.3a, which require a CUP under Section E.3b.

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- f. Levees or dikes intended to protect agricultural crops, provided the top of the dike does not exceed the 10-percent annual chance flood event.

2. **Standards for Permitted Uses in Floodway.** In addition to the applicable standards detailed in Section D:

- a. The applicant must demonstrate that the development will not result in any of the following during the one-percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g. projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”
- b. Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12, and FEMA has issued the CLOMR. Map revisions must follow the procedures in Sections K.1e and N.
- c. Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Sections K.1e and N.
- d. Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.
- e. Any facility used by employees or the general public must be designed with a flood warning system acceptable to the Zoning Administrator that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
- f. Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters and be protected from erosion and sediment entering surface waters by the use of vegetative cover, riprap or other methods as soon as possible.

3. **Conditional Uses in Floodway.** The following uses and activities may be permitted as conditional uses, subject to the standards detailed in Sections E.4:

- a. Commercial extractive uses, and storage and stockpiling yards.
- b. Structures accessory to uses detailed in Sections E.1a and E.3a.

4. **Standards for Conditional Uses in Floodway.** In addition to the applicable standards detailed in Sections D, E.2 and K.2:

- a. Accessory Structures. Structures accessory to the uses detailed in Sections E.1a and E.3a must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters and are subject to the standards in Section F.2c of this ordinance.
- b. Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the City of Brainerd.

FLOOD FRINGE DISTRICT

1. **Permitted Uses in Flood Fringe.** Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in Sections F.2.

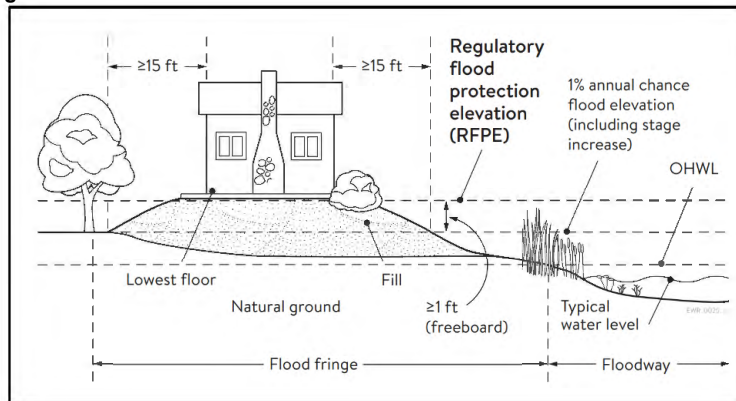
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2. **Standards for Permitted Uses in Flood Fringe.** In addition to the applicable standards detailed in Section D:

a. Residential Structures.

- i. Elevation on Fill (Figure 1). Structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor, as defined in Section B of this ordinance, is elevated at or above the Regulatory Flood Protection Elevation (RFPE). The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the Zoning Administrator. Elevation methods alternative to these fill standards are subject to a Conditional Use Permit, as provided in Section F.3a of this ordinance. **Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation.**

Figure 1: Overview of fill standards for residential



b. Nonresidential Structures. Nonresidential structures must meet one of the following construction methods:

- i. Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section F.2a.i of this ordinance. Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.
- ii. Alternative Elevation Methods. Structures may be elevated using methods alternative to the fill standards in Section F.2a.i of this ordinance. Such methods include the use of blocks, pilings (Figure 2), filled stem walls (Figure 3), or internally-flooded enclosed areas (Figure 4) such as crawl spaces, attached garages, or tuck under garages.

Figure 2: Blocks or pilings.

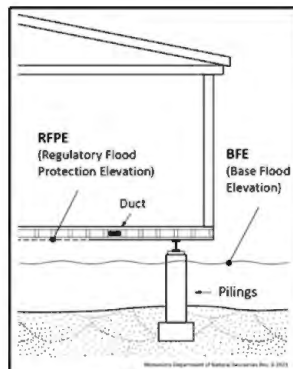


Figure 3: Filled stem walls.

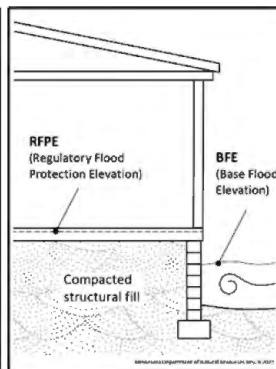
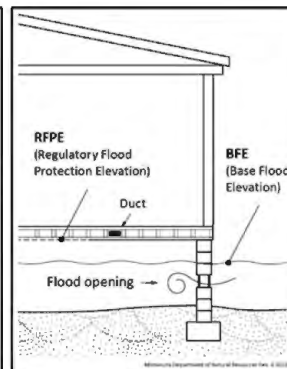


Figure 4: Internally flooded enclosed area.



Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer

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or architect, or meet or exceed the standards detailed in FEMA Technical Bulletin 1, as amended, as well as the following standards:

- a. The lowest floor, as defined in Section B of this ordinance, shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).
 - b. The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.
 - c. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
 - d. Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. [Such areas shall be subject to a deed-restricted non-conversion agreement as well as periodic inspections with the issuance of any permit.](#)
- iii. Dry Floodproofing. Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:
 - a. Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);
 - b. Must meet the standards of FEMA Technical Bulletin 3, as amended; and
 - c. A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.
- c. Accessory Structures. In addition to meeting the standards in Section D.2a of this ordinance, all accessory structures must meet the following standards:
 - i. Structures shall not be designed or used for human habitation.
 - ii. Structures will have a low flood damage potential.
 - iii. Structures shall constitute a minimal investment not to exceed 600 square feet in size, one-story in height, and shall only be used for parking and storage, except as provided under Section F.2c.v.
 - iv. Structures with two or more rigid walls, must meet one of the following construction methods:
 - a. Wet Floodproofing. Structures may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
 - b. Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section F.2a.i of this ordinance. Fill is not required to be extended 15 feet beyond the outside limits of the

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structure.

- c. **Alternative Elevation Methods.** Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) through methods alternative to the fill standards in Section F.2c.iv (b) and must meet the standards in Section F.2b.ii of this ordinance.
 - d. **Dry Floodproofing.** Structures may be dry-floodproofed, or watertight, meeting the standards in Section F.2b.iii of this ordinance.
 - v. Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, meeting the standards in Section D.2a of this ordinance may be located at an elevation below the Regulatory Flood Protection Elevation, exceed 600 square feet in size, and may include uses as provided under Section F.1.
 - d. All new principal structures must provide vehicular access no lower than one foot below the Base Flood Elevation (BFE), unless a flood warning/emergency evacuation plan has been approved by the City of Brainerd.
 - e. Any facilities used by employees or the general public must be designed with a flood warning system acceptable to the City of Brainerd that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
 - f. Manufactured homes and recreational vehicles must meet the standards of Section J of this ordinance.
3. **Conditional Uses in Flood Fringe.** The following uses and activities may be permitted as conditional uses, subject to the standards in Sections F.4:
- a. **Alternative Elevation Methods – Residential Structures.** Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section F.2a.
 - b. The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with minimum requirements of this Section.
4. **Standards for Conditional Uses in Flood Fringe.** In addition to the applicable standards detailed in Sections D, F.2, and K.2:
- a. All residential structures with lowest floors elevated through alternative elevation methods must meet the standards in Section F.2b.ii of this ordinance.

GENERAL FLOODPLAIN DISTRICT

G.

1. Permitted Uses in General Floodplain District

- a. Until the floodway is delineated, allowable uses will be restricted to those listed in the Floodway District, Section E.
- b. All other uses are subject to a floodway/flood fringe determination as provided in Section G.4, in addition to the standards provided in Sections G.2 and G.3. Permitted uses shall be determined as follows:
 - i. If the development is determined to be in the Floodway District, Section E applies.
 - ii. If the development is determined to be in the Flood Fringe District, Section F applies.

2. Determining Flood Elevations

- a. All development requires a determination of the Base Flood Elevation (BFE). Proposed developments of more than 50 lots or 5 acres, whichever is lesser, must use detailed methods for determining the BFE. This may include use of supporting A Zone modeling and the “shoreland method,” when eligible, on lakes. Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal, State, or other source (including MNDNR’s Lake & Flood Elevations Online (LFEO) Viewer).
- b. The Regulatory Flood Protection Elevation (RFPE) can be determined by assuming a one-half (0.5) foot stage increase to accommodate for future cumulative impacts. A stage increase does not need to be assumed along lakes, wetlands, and other basins that are not affected by velocities.

3. Encroachment Analysis

- a. Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point, unless through a map revision following the procedures in Sections K.1e and N. This evaluation must include the cumulative effects of previous encroachments, and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result.
- b. Alterations or changes that result in stage decreases are allowed and encouraged.

4. Standards for the Analysis of Floodway Boundaries

- a. Requirements for Detailed Studies. Any development, as requested by the Zoning Administrator, shall be subject to a detailed study to determine the Base Flood Elevation (BFE) and the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, Subp. 4 and FEMA Guidelines and Standards for Flood Risk Analysis and Mapping, as revised. Additionally:
 - i. A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half (0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and
 - ii. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.
- b. Other Acceptable Methods. For areas where a detailed study is not available or required:
 - i. Development prohibited in floodways (e.g. most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any alternative methods used to determine floodway boundaries.
 - ii. For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to Item A above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the Regulatory Flood Protection Elevation (RFPE):

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- a. All areas that are at or below the ordinary high water level, as defined in Minnesota Statutes, section 103G.005, Subd. 14, will be considered floodway, and all areas below the Base Flood Elevation (BFE) but above the ordinary high water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the Shore Impact Zone as identified in the community's Shoreland ordinance, whichever distance is greater, land alterations shall be restricted to:
 - i. The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures in Section G.4b. item i; and
 - ii. The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency or the zoning administrator.

II. SUBDIVISION STANDARDS

1. **Subdivisions.** All subdivided land must meet the following requirements. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
 - a. All lots within floodplain districts must be suitable for a building site outside of the Floodway District.
 - b. Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the City of Brainerd.
 - c. All subdivisions must have vehicular access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation (RFPE), unless a flood warning/emergency evacuation plan has been approved by the City of Brainerd.
 - d. The Floodway and Flood Fringe District boundaries, the Regulatory Flood Protection Elevation (RFPE) and the required elevation of all access roads must be clearly identified on all required subdivision drawings and platting documents.

I. PUBLIC AND PRIVATE UTILITIES, SERVICE FACILITIES, ROADS, BRIDGES, AND RAILROADS

1. **Public Transportation Facilities.** Railroad tracks, roads, and bridges must be elevated to the Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. All public transportation facilities should be designed to minimize increases in flood elevations.
2. **Public Utilities.** All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, parts 4725.4350 and 4725.5850.
3. **Private On-Site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities.** Private facilities shall be subject to applicable provisions detailed in Section I.2. In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding,

shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, parts 7080.2270.

J. MANUFACTURED HOMES AND RECREATIONAL VEHICLES

1. **Manufactured Homes.** Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:
 - a. New and replacement manufactured homes must be placed and elevated in compliance with Section F of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
 - b. New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section H of this ordinance.
2. **Recreational Vehicles.** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:
 - a. Meet the requirements for manufactured homes in Section J.1, or
 - b. Be travel ready, meeting the following criteria:
 - i. The vehicle must be fully licensed.
 - ii. The vehicle must be ready for highway use, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities.
 - iii. No permanent structural type additions may be attached to the vehicle.
 - iv. Accessory structures may be permitted in the Flood Fringe District, provided they do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections D and F.2c.

K. ADMINISTRATION

1. **Duties.** A Zoning Administrator or other official must administer and enforce this ordinance.
 - a. **Permit Application Requirements.** Permit applications must be submitted to the Zoning Administrator. The permit application must include the following, as applicable:
 - i. A site plan showing all existing or proposed buildings, structures, service facilities, potential obstructions, and pertinent design features having an influence on the permit.
 - ii. Location and detail of grading, fill, or storage of materials.
 - iii. Copies of any required local, state or federal permits or approvals.
 - iv. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
 - b. **Recordkeeping.** The Zoning Administrator must maintain applicable records in perpetuity documenting:
 - i. All certifications for dry floodproofing and alternative elevation methods, where applicable.
 - ii. Analysis of no-rise in the Floodway District, as detailed in Section E.2a, and encroachment analysis ensuring

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no more than one-half foot of rise in the General Floodplain District, as detailed in Sections G.2b and G.3a.

- iii. Final elevations, as applicable, detailing the elevation (in relation to mean sea level) of the lowest floor, including basements, of all new and substantially improved structures. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the Zoning Administrator.
 - iv. Substantial damage and substantial improvement determinations, as detailed in Section L.2, including the cost of improvements, repairs, and market value.
 - v. All variance actions, including justification for their issuance, and must report such variances as requested by the Federal Emergency Management Agency.
- c. **Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.** No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this ordinance.
- d. **Notifications for Watercourse Alterations.** Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters in accordance with Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.
- e. **Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations.** Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the City of Brainerd must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the General Floodplain District, approval from the Commissioner of Natural Resources is needed prior to permitting any development that results in a stage increase between 0.5 and 1.0 feet; a map revision is only required if development results in stage increases greater than 1.0 foot.

2. Conditional Uses and Variances

- a. Process.
 - i. An application for a conditional use permit will be processed and reviewed in accordance with the provisions of this ordinance.
 - ii. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with Minnesota Statutes, Section 462.357, Subd. 6(2) and this ordinance.
- b. Additional Variance Criteria. The following additional variance criteria must be satisfied:
 - i. Variances must not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - ii. Variances from the provisions of this ordinance may only be issued by a community upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - iii. Variances from the provisions in this ordinance may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

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- iv. Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.
 - v. Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).
 - vi. The Zoning Administrator must notify the applicant for a variance in writing that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - b. Such construction below the base flood level increases risks to life and property. Notification must be maintained with a record of all variance actions.
 - c. **Considerations for Approval.** The City of Brainerd must consider all relevant factors specified in other sections of this ordinance in granting variances and conditional use permits, including the following:
 - i. The potential danger to life and property due to increased flood heights or velocities caused by encroachments.
 - ii. The danger that materials may be swept onto other lands or downstream to the injury of others.
 - iii. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - d. **Conditions of Approval.** The City of Brainerd may attach such conditions to the granting of variances and conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - i. Limitations on period of use, occupancy, and operation.
 - ii. Imposition of operational controls, sureties, and deed restrictions.
 - iii. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
 - iv. Other conditions as deemed appropriate by the Zoning Administrator and city council.
3. **Notifications to the Department of Natural Resources**
- a. All notices of public hearings to consider variances or conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist at least ten (10) days before the hearings. Notices of hearings to consider subdivisions/plats must include copies of the subdivision/plat.
 - b. A copy of all decisions granting variances and conditional uses under this ordinance must be sent via electronic mail to the Department of Natural Resources respective area hydrologist within ten (10) days of final action.

NONCONFORMITIES

- 1. **Continuance of Nonconformities.** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:
 - a. Within the floodway and general floodplain districts (when a site has been determined to be located in the floodway following the procedures in Section G.3, or when the floodway has not been delineated), any expansion or enlargement of uses or structures is prohibited.
 - b. Within all districts, any addition, modification, rehabilitation, repair, or alteration shall be in conformance with the

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provisions of this ordinance, shall not increase the flood damage potential or increase the degree of obstruction to flood flows, and where applicable, must be protected to the Regulatory Flood Protection Elevation (RFPE).

- c. If any nonconforming structure is determined to be substantially damaged or substantially improved based on the procedures in Section L.2, it may not be reconstructed except in conformity with the provisions of this ordinance. *Any structures located outside the one-percent annual chance floodplain are exempt from this provision.*
 - d. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.
 - e. *If any nonconforming structure has utilities, electrical, or mechanical equipment damaged due to flooding, it must be rebuilt in conformance with the elevation requirements in Section D.2a. iv to the greatest extent practicable. This requirement shall apply regardless of the determinations made in Section L.2.*
2. **Substantial Improvement and Substantial Damage Determinations.** Prior to issuing any permits for additions, modifications, rehabilitations, repairs, alterations, or maintenance to nonconforming structures, the Zoning Administrator is required to determine if such work constitutes substantial improvement or repair of a substantially damaged structure. A determination must be made in accordance with the following procedures:
- a. Estimate the market value of the structure. In the case of repairs, the market value of the structure shall be the market value before the damage occurred and before any restoration or repairs are made.
 - b. Estimate the cost of the project. The property owner shall accommodate for inspection, and furnish other documentation needed by the zoning administrator to evaluate costs.
 - i. Improvement costs shall be comprised of the market rate of all materials and labor, as well as the costs of all ordinary maintenance and upkeep carried out over the past one year.
 - ii. Costs to repair damages shall be comprised of the market rate of all materials and labor required to restore a building to its pre-damaged condition regardless of the work proposed, as well as associated improvement costs if structure is being restored beyond its pre-damaged condition.
 - c. Compare the cost of the improvement, repairs, or combination thereof to the estimated market value of the structure, and determine whether the proposed work constitutes substantial improvement or repair of a substantially damaged structure, as defined in Section B of this ordinance.
 - i. *For the purposes of determining whether the proposed work would constitute substantial improvement, the evaluation shall also include all rehabilitations, additions, or other improvements completed since the community has adopted floodplain standards impacting this structure.*
 - ii. *If any nonconforming structure experiences a repetitive loss, as defined in Section B of this ordinance, it shall be considered substantially damaged and must not be reconstructed except in conformity with the provisions of this ordinance.*
 - d. Based on this determination, the zoning administrator shall prepare a determination letter and notify the property owner accordingly. Structures determined to be substantially damaged or substantially improved may not be reconstructed except in conformity with the provisions of this ordinance.

VIOLATIONS AND PENALTIES

1. **Uses in Violation of the Ordinance.** Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this ordinance shall be considered a public nuisance.
2. **Civil Remedies.** The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under

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this ordinance may be abated by an action brought by the City of Brainerd or the Department of Natural Resources.

3. **Enforcement.** Violations of the provisions of this ordinance constitutes a misdemeanor and is punishable as defined by law. The Zoning Administrator 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. The City of Brainerd 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.

AMENDMENTS

1. **Ordinance Amendments.** Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in Section C.2 of this ordinance.
2. **Required Approval.** All amendments to this ordinance must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements. The floodplain ordinance shall not be considered valid until approved.

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

Adopted this _____ day of _____, 2026

MIKE O'DAY
President of the Council

Approved this _____ day of _____, 2026

DAVE BADEAUX
Mayor

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator

Published: One Time – _____

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: May 20th, 2026

RE: Shoreland Ordinance

INTRODUCTION

The Planning Commission directed staff to work with the MN DNR to investigate if lot widths and sizes are negotiable for non-riparian sewered lots in the Traditional Neighborhood and Contemporary Neighborhood Zoning Districts. The current DNR standard for lot widths and sizes are not consistent with the Brainerd Zoning Code or the City's historic development patterns. The MN DNR recommended that staff perform a survey of properties located in the shoreland district prior to making a request. In addition, staff also requested an impervious surface increase from 25% to 40%.

Staff prepared a final ordinance as directed by the Planning Commission with reduced lot widths and lot sizes with concessions in other areas of the Code. The letter to the DNR is attached to this agenda item. After review by the MN DNR, the DNR requested that in order to approve the reduced lot sizes and widths additional regulations would be necessary that would make a significant difference in overall water quality of the lake.

At the April 15th Planning Commission meeting, the Commission reviewed the proposed deviations and higher standards and motioned to hold the public hearing for the proposed Shoreland Ordinance at the May 20th meeting.

PROPOSED DEVIATIONS

- 1) Allow for a combined 400 SQFT for patios, pools, and hot tubs in SIZ2 with an approved and implemented stormwater plan. (Section J.2 Appendix A)
- 2) Allow for reduced lot sizes and lot widths for GD Lakes for lots that are non-riparian and sewered in the Traditional Neighborhood and Contemporary Neighborhood Zoning Districts. (Sections H.I&J Appendix A)
- 3) Allow for increased impervious surface maximum requirements for lots that are non-riparian and sewered in the Traditional Neighborhood and Contemporary Neighborhood Zoning Districts. (Section H.R Appendix A)
- 4) Allow for 35' primary structures in residential districts. (Section H.S Appendix A)

- 5) Allow for (1) guest cottage on a single-family lot that meet lot size requirements (Section J.3 Appendix A).
- 6) Allow for 35% open space for Planned Unit Developments. (Section J.5.b Appendix B)

PROPOSED HIGHER STANDARDS

- 1) Watercraft access ramps, approach roads, and access related parking areas require shoreland alteration permits and are permitted for private residential lots only on lakes without Public Accesses to help stop the spread of aquatic invasive species. (Section J.13 of Appendix A)
- 2) Prohibition on use of permeable pavement to exceed standards. (Sections J.2,3,12, and 13 Appendix A)
- 3) Requiring that a lot must be at least 100 feet from the OHWL to qualify as a non-riparian lot. (Section H Appendix A)
- 4) Riparian properties may exceed 15% impervious surface with an approved and implemented stormwater plan. (Section I.2 Appendix A)
- 5) Riparian properties may exceed 20% impervious surface with a no maintenance shoreline buffer. Impervious surface additions of 160 square feet or less per year are exempt. Reconstruction projects 400 SF or more per year on riparian properties exceeding 20% impervious surface also require a no maintenance shoreline buffer. (Section J.8 Appendix A)
- 6) Limit water orientated accessory structures in SIZ1 to 120 SQFT with a 20-foot setback. (Section J.5 Appendix A)
- 7) Enhanced riprap provisions. (Section J.9 Appendix A)
- 8) All guest cottages or guest quarters require a no maintenance buffer. (Section J.3.b Appendix A)

STAFF RECOMMENDATION

Hold a public hearing and recommend adoption of the attached ordinance.

**ORDINANCE
NO. 15XX**

**AN ORDINANCE AMENDING SECTIONS 530 SHORELAND MANAGEMENT
REGULATIONS OF THE CITY CODE AND 515-2 ZONING DISTRICTS, 515-5 RULES AND
ADMINISTRATION AND 515-6 RULES AND DEFINITIONS OF THE ZONING CODE**

WHEREAS, a public hearing was held by the Planning Commission as required by the Zoning Code, on May 20th, 2026

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

SECTION ONE Purpose: The purpose of a shoreland zoning district is to protect the quality of surface waters and preserve the environmental and economic values of shorelands by regulating development and land use along lakes and rivers. These districts manage aspects like lot sizes, building setbacks, and land alterations to prevent pollution, minimize flood damage, maintain natural characteristics, and ensure the wise use of water resources.

SECTION TWO: Section 530 Shoreland Management Regulations of Chapter Five of the City Code is hereby repealed in its entirety.

SECTION THREE: Section 515-2 Zoning Districts are hereby amended by adding 515-2-22 Shoreland Overlay in its entirety to the Zoning Code as indicated in Appendix A of this Ordinance.

SECTION FOUR: Section 515-5 – Rules and Administration is hereby amended by adding 515-5-7.J Shoreland Planned Unit Developments in its entirety to the Zoning Code as indicated in Appendix B of this Ordinance. The current section 515-5-7.J and all subsequent Sections in 515-5-7 shall be reformatted in succeeding order.

SECTION FIVE: Section 515-5 – Rules and Administration is hereby amended by adding the following underlined language to Section 515-5-2.B.6 Criteria for Granting Conditional Use Permits.

j. In addition to the above criteria, conditional uses within the shoreland areas shall be subject to a thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- a. the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- b. the visibility of structures and other facilities as viewed from public waters is limited;
- c. the site is adequate for water supply and on-site sewage treatment; and
- d. the types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

SECTION SIX: Section 515-6-2.A Definitions of Nouns, Person, and Regulatory Bodies shall be amended by adding the following underlined language in alphabetical order.

Commissioner. The commissioner of the Department of Natural Resources.

SECTION SEVEN: Section 515-6-2.B Definitions of Structure, Measurement and Dimension shall be amended by adding the following underlined language in alphabetical order.

Bluff impact zone. A bluff and land located within 20 feet from the top of a bluff.

Boardwalk. A temporary or permanent above-grade constructed linear walkway, located above the OHW, not to exceed 6 feet in width and used to cross wetlands for the purposes of accessing shorelines/public waters.

Boathouse. A structure designed and used solely for the storage of boats or boating equipment.

Boat Slip. A space adjacent to a dock or between two docks or piers where one boat may be moored.

Camper. - A structure capable of providing shelter and mounted on a self-propelled vehicle.

Dock. A narrow platform or structure extending waterward from the shoreline (below OHW) intended for ingress and egress for moored watercraft or seaplanes or to provide access to deeper water for swimming, fishing, or other water-oriented recreational activities.

Failing System. Any subsurface sewage treatment system that discharges sewage to a seepage pit, cesspool, drywell or leaching pit, and any system with less than the required vertical separation as described in Minnesota Rule 7080.1500 Subparts. 4 (D & E).

Guest Cottage. A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Guest Quarter. A structure located above a garage used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Lot, Riparian. A lot that abuts public waters.

Lot, Non-Riparian. A lot that does not abut public waters.

Patio. An open recreation area adjacent to a dwelling, or free standing, that is covered with a pervious or an impervious surface such as asphalt, paving stones, wood, or other approved material.

Public waters. Any waters as defined in Minnesota Statutes, Section 103G.005, Subdivision 15.

Rear Lot Zone (RLZ). Land located between the structure setback line and the landward boundary of the shoreland district.

Rip-Rap. Coarse stones randomly and loosely placed along the shoreline meeting the standards of this Ordinance.

Shore Impact Zone 1 (SIZ 1). Land located between the ordinary high-water level (OHWL) of public waters and a line parallel to it at a setback of 50 percent of the required structure setback. The shore impact zone serves as all or part of the shoreline buffer.

Shore Impact Zone 2 (SIZ 2). Land located between shore impact zone 1 and the structure setback line.

Shoreland. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

Significant historic site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Toe of the bluff. The lower point of a 50-foot segment with an average slope exceeding 18 percent.

Top of the bluff. The higher point of a 50-foot segment with an average slope exceeding 18 percent.

Water Oriented Accessory Structure. A small, above ground building or other improvement, except stairways, fences, docks, pergolas attached to a deck or patio and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to the public waters than the normal structure setback. Examples of such structures and facilities include equipment storage buildings, gazebos, screen houses, free-standing pergolas, fish houses, pump houses, patios, and detached decks.

SECTION EIGHT: Section 515-6-2.C Definitions of Use, Standards and Terms shall be amended by adding the following underlined language and deleted language struck out in alphabetical order.

Campground or recreational camping vehicle park. - A development that is used for the purpose of providing five or more sites for nonpermanent overnight use by campers using tents, trailers, recreation camping vehicles, or other temporary shelters.

Dirt Moving. Any movement, excavation, grading, or filling of dirt on a lot.

Extractive use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

Forest land conversion. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Building Height. The vertical distance to be measured from the ~~average-lowest~~ 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.

Ice Ridge, Annual. A linear mound of lakebed materials pushed up onto the lakeshore by the action of ice within a calendar year.

Ice Ridge, Historic. A linear mound of lakebed materials pushed up onto the lakeshore by the action of ice over a period of two or more years upon which well-established herbaceous and woody vegetation is growing.

Industrial use. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive vegetation clearing. The complete removal of trees or shrubs or ground cover in a contiguous patch, strip, row, or block.

No Maintenance Buffer. A strip of land on a riparian parcel adjacent to a public water upon which vegetation is to be maintained in its natural state, and not be mowed, cut or removed shorter than 8 inches in height and is consistent with the standards set forth in the Department's Shoreline Rapid Assessment Model.

Pervious Surface. A surface that allows inflow of rainwater into the underlying construction or soil.

Sensitive Resource Management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

Sensitive Shoreland District. A land use district established to accommodate limited residential uses, agricultural uses, and forest management activities in the shoreland zone while conserving sensitive land areas on which more intensive development would adversely affect water quality, wetlands, lakes, shorelines, slopes, wildlife habitat, biological ecosystems, or scenic and natural values.

Water-Oriented Commercial Use. The use of land for commercial purposes, where access to and use of surface water feature is an integral part of the normal conducting of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use

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

Adopted this _____ day of _____, 2026

MIKE O'DAY
President of the Council

Approved this _____ day of _____, 2026

DAVE BADEAUX
Mayor

ATTEST: _____
NICHOLAS W. BROYLES
City Administrator

Published: One Time – _____

515-2-22 Shoreland Overlay (S)

- A. **Purpose of Shoreland Overlay District.** The purpose of the Shoreland Overlay Zoning District is to protect the quality of surface waters and preserve the natural characteristics of shoreland areas by regulating development along lakes and rivers. This includes managing lot sizes, building placement, and alterations to the shoreline to minimize environmental impact. Shoreland is land located 1,000 feet from the ordinary high water level of a lake, pond, or flowage and 300 feet from a river or stream.
- B. **Jurisdiction.** The shore lands of the city are hereby designated as a shore land overlay district pursuant to the authorization contained in the Minnesota statutes chapter 103F; Minnesota regulations parts 6120.2500 through 6120.3900; and the planning and zoning enabling legislation in Minnesota statutes chapter 462. The provisions of this Ordinance shall apply to the shorelands of the public water bodies as classified in this Section G Table 515-2-22-1 of this Ordinance and to private water bodies greater than 10 acres in size. For the purposes of this ordinance, “public waters” includes private water bodies greater than 10 acres in size.
- C. **Compliance.** The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other applicable regulations.
- D. **Interpretation.** In their interpretation based on the most current information available and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- E. **Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction the remainder of this Ordinance shall not be affected thereby.
- F. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only and the stricter state guidelines shall apply.
- G. **Public Waters Classifications.**

Table 515-2-22.1. S Public Waters Classifications

Lakes		
A	General Development Lakes (list here and designate on official Zoning map)	Rice Lake: 18-145 Gilbert Lake: 18-320 Unnamed Lake: 18-537
B	Natural Environment (list here and designate on official zoning map)	Mud Lake: 18-321 - Sec 29 and 30 T1234N R28W Buffalo Lake: 18-152 - Sec 2 and 3 T44N R31W Unnamed Lake: 18-535
Rivers and Streams		
D	Forested Rivers (list river names here and show boundaries of district on official zoning map)	Mississippi River: T45N R30W Sect 18,19 - T45N R31W Sect 24,25,35,36 - T133 R28W Sect 4,9 - T134 R28W Sect 34
E	Remote Rivers (list stream names here and show boundaries of district on official zoning map)	Whitley's Creek (M-100) T45N R30W Sect 16,17
F	Tributary Streams (list stream names here and show boundaries of district on official zoning map)	Little Buffalo Creek: T45N R31W Sect 35,36 - T45N R30W Sect 31 Tributary to Lt Buffalo Creek - T45N R30W Sect 31 - T44N R30W Sect 6 Gilbert Lake Creek - T134 R28W Sect 28 – Buffalo Creek (M-098) T44 R30W Sect 2,3,11
G	All protected watercourses in the City of Brainerd indicated on the Official Protected Waters Inventory List for Crow Wing County, a copy of which is hereby adopted by reference. https://files.dnr.state.mn.us/waters/watermgmt_section/pwi/CROW_PWILIST.PDF	

H. **S Zoning District Dimensional Standards.** The following dimensional requirements shall apply to all shorelands of all public waters within the city. Lots must be at least 100 feet from the OHWL to qualify as a non-riparian lot.

Table 515-2-22.2. S Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions	Natural Environmental Lakes	Recreational Development Lakes	General Development Lakes	Forested Rivers	Tributary Streams	Remote River
A Riparian Lot Size - Unsewered (minimum)						
Single Family	80,000 SF	40,000 SF	20,000 SF	(no minimum)	(no minimum)	(no minimum)
Duplex	120,000 SF	80,000 SF	40,000 SF	(no minimum)	(no minimum)	(no minimum)
Triplex	160,000 SF	120,000 SF	60,000 SF	(no minimum)	(no minimum)	(no minimum)
Quad	200,000 SF	160,000 SF	80,000 SF	(no minimum)	(no minimum)	(no minimum)
B Riparian Lot Frontage on All Roads and Water Frontage - Unsewered (minimum)						
Single Family	200'	150'	100'	200'	100'	300'
Duplex	300'	225'	180'	300'	150'	450'
Triplex	400'	300'	260'	400'	200'	600'
Quad	500'	375'	340'	500'	250'	750'
C Non-riparian Lot Size – Unsewered (minimum)						
Single Family	80,000 SF	40,000 SF	40,000 SF	(no minimum)	(no minimum)	(no minimum)
Duplex	160,000 SF	80,000 SF	80,000 SF	(no minimum)	(no minimum)	(no minimum)
Triplex	240,000 SF	120,000 SF	120,000 SF	(no minimum)	(no minimum)	(no minimum)
Quad	320,000 SF	160,000 SF	160,000 SF	(no minimum)	(no minimum)	(no minimum)
D Non-riparian Lot Frontage on All Roads and Water Frontage - Unsewered (minimum)						
Single Family	200'	150'	150'	200'	100'	300'
Duplex	400'	265'	265'	300'	150'	450'
Triplex	600'	375'	375'	400'	200'	600'
Quad	800'	490'	490'	500'	250'	750'
E Riparian Lot Size - Sewered (minimum)						
Single Family	40,000 SF	20,000 SF	15,000 SF	(no minimum)	(no minimum)	(no minimum)
Duplex	70,000 SF	35,000 SF	26,000 SF	(no minimum)	(no minimum)	(no minimum)
Triplex	100,000 SF	50,000 SF	38,000 SF	(no minimum)	(no minimum)	(no minimum)
Quad	130,000 SF	65,000 SF	49,000 SF	(no minimum)	(no minimum)	(no minimum)
F Riparian Lot Frontage on All Roads and Water Frontage - Sewered (minimum)						
Single Family	125'	75'	75'	200'	75'	300'
Duplex	225'	135'	135'	300'	115'	450'
Triplex	325'	195'	195'	400'	150'	600'
Quad	425'	255'	255'	500'	190'	750'
G Non-riparian Lot Size - Sewered (minimum)						
Single Family	20,000 SF	15,000 SF	10,000 SF	(no minimum)	(no minimum)	(no minimum)
Duplex	35,000 SF	26,000 SF	17,500 SF	(no minimum)	(no minimum)	(no minimum)
Triplex	52,000 SF	38,000 SF	25,000 SF	(no minimum)	(no minimum)	(no minimum)
Quad	65,000 SF	49,000 SF	32,500 SF	(no minimum)	(no minimum)	(no minimum)
H Non-riparian Lot Frontage on All Roads and Water Frontage - Sewered (minimum)						

APPENDIX A

BRAINERD, MN
Chapter 515 ZONING

	Single Family	125'	75'	75'	200'	75'	300'
	Duplex	220'	135'	135'	300'	115'	450'
	Triplex	315'	190'	190'	400'	150'	600'
	Quad	410'	245'	245'	500'	190'	750'
I	Non-riparian Lot Size - Sewered CN & TN Zoning Districts						
	Single Family	20,000 SF	15,000 SF	7,000 SF	(no minimum)	(no minimum)	(no minimum)
	Duplex	35,000 SF	26,000 SF	10,000 SF	(no minimum)	(no minimum)	(no minimum)
	Triplex	52,000 SF	38,000 SF	13,000 SF	(no minimum)	(no minimum)	(no minimum)
	Quad	65,000 SF	49,000 SF	16,000 SF	(no minimum)	(no minimum)	(no minimum)
J	Non-riparian Lot Frontage on All Roads and Water Frontage - Sewered CN & TN Zoning Districts (minimum)						
	Single Family	125'	75'	50'	200'	75'	300'
	Duplex	220'	135'	75'	300'	115'	450'
	Triplex	315'	190'	100'	400'	150'	600'
	Quad	410'	245'	125'	500'	190'	750'
K	Dwelling units per acre requirements in the underlying zoning district shall not apply to the Shoreland Overlay District.						
Building Setback Standards		Natural Environmental Lakes	Recreational Development Lakes	General Development Lakes	Forested Rivers	Tributary Streams	Remote River
Building setback from ordinary high-water mark (minimum)							
G	Unsewered Structures	150'	100'	75'	150'	100'	200'
	Sewered Structures	150'	75'	50'	100'	75'	100'
H	Front Yard Setback	Dimensional standards regulated by underlying zoning district.					
I	Side Yard Setback	Dimensional standards regulated by underlying zoning district.					
J	Rear Yard Setback	Dimensional standards regulated by underlying zoning district.					
Additional Structure Setbacks							
K	Top of Bluff (feet) (minimum)	30'					
L	Unplatted Cemetery (feet) (minimum)	50'					
M	Right-of-way line of federal, state, or county highway (feet) (minimum)	50'					
N	Right-of-way line of town road, public street, or other roads not classified	20'					
Sewage System Setback Standards from OHW (MINIMUM)							
O	Sewage systems setback	150'	75'	50'	100'	75'	150'
Other Standards							
P							
Q	Impervious Surface Coverage (maximum)	25%					
R	Impervious Surface Coverage (maximum) Non-riparian Sewered CN & TN Zoning Districts	40%					
S	All primary structures in residential districts height (feet) (maximum)	35'					

I. Land Development Restrictions

1. **Placement of Structures on Lots.** When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance to conform to the adjoining setbacks from the ordinary high-water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.
2. **Impervious Surface Standards.**
 - a. On riparian lots with total impervious surface coverage that exceeds 15%, a stormwater management plan shall be prepared by the applicant or their designated agent pursuant to the stormwater management plan design guide and worksheet provided by the Department and be submitted to the Department for approval prior to issuance of a permit and shall be effectively implemented subject to the following:
 - i. Permit holders or their designated agent shall notify the Department within 24 hours after implementation of the approved stormwater management plan.
 - ii. The Department shall conduct an on-site inspection of stormwater management system to ensure compliance with the approved stormwater management plan.
 - iii. The Zoning Administrator shall have the discretion to determine whether an engineered stormwater plan is required. A determination by the Zoning Administrator that an engineered stormwater plan is necessary shall be made in writing on a form approved by the City Engineer for this purpose.
 - b. On lots with total impervious surface coverage that exceeds 20% a no maintenance shoreline buffer is required pursuant to the standards in the Vegetative Mitigation Section of this Code.
3. **Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, may not be placed within bluff impact zones.
4. **Steep Slopes.** The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
5. **Setbacks and Screening for Uses Without Water-Oriented Needs.** Non-residential uses without water-oriented needs must be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, must either be set back twice the normal ordinary high-water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

6. **High Water Elevations.** Structures must be placed above high water elevations in accordance with the floodplain regulations. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if: 1) the structure is constructed of flood-resistant materials to the elevation; 2) electrical and mechanical equipment is placed above the elevation; and 3) if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
7. **Significant Historic Sites.** No structure may be placed on a significant historic site, as identified by the Minnesota Historical Society, in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

J. Land Uses.

1. Shoreland district land uses are regulated as:
 - a. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed.
 - b. Conditional uses (C). These uses are allowed through a conditional use permit.
 - c. Interim uses (I). These uses are allowed through a conditional use permit.
 - d. Not permitted uses (N). These uses are prohibited.
 - e. When the Shoreland Overlay (S) district is in conflict with the base zoning district, the more restrictive use classification shall prevail.

Table 515-2-22.3. S Land Uses for Lake and River Classifications

Land Uses	Natural Environmental Lakes	Recreational Development Lakes	General Development Lakes	Forested Rivers	Tributary Streams	Transition Rivers
Single residential	P	P	P	P	P	P
Duplex, triplex, quad residential	C	P	P	P	P	P
Guest Cottage	P	P	P	P	P	P
Commercial	C	P	P	C	P	C
Residential PUD	C	C	C	C	C	C
Water-dependent (Resorts are also Commercial PUDs)	C	C	C	C	C	C
Commercial PUD (Expansion of PUD involving up to six additional units or sites allowed as a permitted use provided the provisions of Section 10.0 are satisfied.)	C	C	C	C	C	C
Solar Power Facilities (principal land use)	C	C	C	C	C	C
Parks & historic sites	C	C	C	C	C	C
Public, semipublic	C	P	P	C	P	C
Industrial	N	C	C	C	C	N
Agricultural: cropland and pasture	P	P	P	P	P	P
Agricultural feedlots: New	N	N	N	N	N	N
Agricultural feedlots: Expansion or resumption of existing	C	C	C	C	C	C
Forest management	P	P	P	P	P	P

Forest land conversion	C	C	C	C	C	C
Extractive use	I	I	I	I	I	I
Mining of metallic minerals and peat	I	I	I	I	I	I

2. Standards for Water-Oriented Commercial, Industrial, Public and Semi-Public Uses. Surface water-oriented commercial, industrial, public and semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- a. In addition to meeting impervious coverage limits, setbacks and other zoning standards in this Code, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
- b. Uses that require short-term watercraft mooring for patrons must centralize these facilities, design them to avoid obstructions of navigation, and to be the minimum size necessary to meet the need.
- c. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - i. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.
 - ii. Signs may be placed, when necessary, within SIZ 1 and SIZ 2 if they are designed and sized to be the minimum necessary to convey needed information. The signs must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information, such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be downcast and shielded or directed to prevent illumination out across public waters.
- d. Outside lighting may be located within SIZ 1 and SIZ 2 or over public waters if it is used primarily to illuminate potential safety hazards and is downcast and shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

3. Special Residential Lot Provisions

- a. Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:
 - i. Each building must be set back at least 200 feet from the ordinary high water level;
 - ii. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 - iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - iv. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- b. One guest cottage or guest quarter may be allowed on lots meeting or exceeding the single-family lot area and width dimensions presented in this Code, provided the following standards are met:

- i. For lots exceeding the minimum lot dimensions of single family lots, the guest cottage or guest quarter must be located within an area equal to the smallest single family-sized lot that could be created including the principal dwelling unit;
 - ii. A guest cottage or guest quarter must not exceed more than 700 square feet of livable area.
 - iii. A guest cottage must not exceed 15 feet in height.
 - iv. A guest quarter must not exceed 35 feet in height.
 - v. A guest cottage or guest quarter must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
 - vi. All properties with a new guest cottage or guest quarter shall provide a no maintenance buffer in accordance with the Vegetative Mitigation Section of this Code.
 - vii. No more than one (1) guest cottage or guest quarter shall be allowed per single-family residential lot.
 - viii. Lots which contain a two-, three-, four- or multi-family dwellings shall not be allowed a guest cottage or guest quarter.
- c. Lots intended as private controlled accesses to public waters, or as recreation areas for use by owners of non-riparian lots within subdivisions, are prohibited.
- 4. Agricultural Use Standards**
- a. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high-water level.
 - b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States National Resource Conservation Service.
- 5. Forest Management Standards**
- a. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-point Source Pollution Assessment-Forestry and the provisions of the Water Quality in Forest Management “Best Management Practices in Minnesota”.
- 6. Extractive Use Standards**
- a. Extractive uses require a conditional use permit.
 - b. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
 - c. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high-water levels of public waters and from bluffs.
- 7. Mining of Metallic Minerals**

- a. Mining of metallic minerals, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a conditional use provided the provisions of Minnesota Statutes, sections 93.44 to 93.51, are satisfied.

K. Riparian Shoreland Alterations

1. **Decks.** Construction of new decks shall require a shoreland alteration permit, building permit, and comply with the following standards:
 - a. Decks adjacent to dwellings shall meet structure setbacks in Table 515-2-22.1 of this Section.
 - b. A 4-foot walkway located beyond the minimum required setback required for dwellings, or within said setback when attached or immediately adjacent to a building, constructed for the purpose of providing access to an entrance door on a dwelling, may be added without a shoreland alterations permit and without regard to its setback to the ordinary high-water level, but may need a building permit.
 - c. Decks should be constructed as to be pervious, allowing water to reach a pervious surface below the deck. Decks not meeting this requirement shall be considered impervious surfaces.
 - d. *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:
 - i. The structure existed on the date the structure setbacks were established;
 - ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - iii. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and
 - iv. The deck is constructed primarily of wood or composite material, and is not roofed or screened.
2. **Patios.** Patios placed within the structure setback require a shoreland alteration permit and shall comply with the following standards:
 - a. Not be located in SIZ 1 except as a water-oriented accessory structure according to this Section;
 - b. Be free standing;
 - c. Have no railings;
 - d. Be a maximum of 250 square feet in size. Up to 400 square feet in size is allowed with an approved and implemented stormwater management plan.
 - e. The combined footprint of patios, swimming pools and hot tubs in SIZ 2 may not exceed 400 square feet;
 - f. Not be more than one foot above natural ground level.
 - g. Permeable pavers are considered impervious.
3. **Stairways, Walkways, Lifts and Landings.** Stairways, walkways, lifts, and landings for public water access shall require shoreland alteration permits and comply with the following standards:
 - a. Preferred to topographic changes. Stairways, walkways, and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas.
 - b. Only one stairway or walkway shall be allowed within a shore or bluff impact zone. The combination of stairways and walkways to traverse a shore or bluff impact zone shall be allowed, provided they are constructed in a continuous manner without diverting in different directions. A parcel may contain one lift in addition to any allowed stairway/walkway. Within SIZ 1, both the lift and the walkway/stairway must be located within the allowable cleared vegetation standards of this Section.

- c. Maximum width. Stairways and lifts shall not exceed four feet in width on residential lots. Up to eight-foot-wide stairways may be permitted on water-oriented commercial lots.
 - d. The maximum impervious surface limits for the lot shall not be exceeded. Permeable pavers are considered impervious.
 - e. Landings. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area and be integral to the function of the stairway and not constitute a deck. Landings for stairways and lifts on water-oriented commercial lots must not exceed 64 square feet in area and be integral to the function of the stairway and not constitute a deck.
 - f. Canopies or roofs are not allowed on stairways, lifts, or landings.
 - g. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
 - h. Facilities such as ramps or mobility paths for handicapped access to shoreline areas may be allowed, provided that:
 - i. The department determines that there is no other reasonable way to achieve access; and
 - ii. The dimensional and performance standards of this section are met; and
 - iii. The requirements of Minnesota Rules, Chapters 1307 and 134 are met.
4. **Accessory Structures.**
- a. The placement and total cumulative area that all accessory structures may occupy on a lot shall be subject shall be regulated by the applicable zoning district underlying this shoreland overlay district.
 - b. Accessory structures without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must meet primary structure setbacks from the ordinary high-water level and all other setback requirements of this Code.
 - c. Private swimming pools located above or below the ground and hot tubs located above or below the ground shall require a permit as an accessory structure and must meet all applicable setbacks. Private swimming pools and hot tubs located in the ground are prohibited in shore impact zone 1 but shall be allowed in shore impact zone 2 and the rear lot zone. The combined footprint of patios, swimming pools and hot tubs in shore impact zone 2 may not exceed 400 square feet.
 - d. New boathouses and boat storage structures that do not meet the setback requirements of this Code are prohibited.
 - e. Existing boathouses and boat storage structures may be repaired or replaced pursuant to Minn. Stat. §394.36, subd. 4.
5. **Water-Oriented Accessory Structures.** One water-oriented accessory structure that does not meet the structure setbacks in Table 515-2-22.2 of this Code may be placed with a shoreland alterations permit on a water-oriented residential or commercial lot provided the following standards are met:
- a. For riparian commercial properties the structure or facility shall not exceed 15 feet in height and cannot occupy an area greater than 200 square feet;
 - b. For riparian residential properties the structure or facility shall not exceed 12 feet in height and cannot occupy an area greater than 120 square feet;
 - c. The minimum setback of the structure or facility from the OHWL level shall be 20 feet;
 - d. The structure or facility is treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - e. The structure shall not be used for human habitation;

- f. The structure shall not include bathroom facilities.
- g. The structure shall not be located within a bluff impact zone;

6. Retaining Walls

- a. A retaining wall may be installed with a shoreland alteration permit in SIZ 1 or 2 provided the following standards are met:
 - i. The City Engineer determines that there is no other alternative to control erosion.
 - ii. No tier of the retaining wall shall exceed four feet in height without a plan signed by a Minnesota licensed professional engineer.
 - iii. A retaining wall is not required to meet a side yard setback provided it does not adversely affect adjoining property.
- b. A retaining wall may be installed without a permit behind the structure setback provided that:
 - i. It does not significantly alter the character of the property or does not create runoff or erosion problems.
 - ii. A retaining wall is not required to meet a side yard setback provided it does not adversely affect adjoining property.

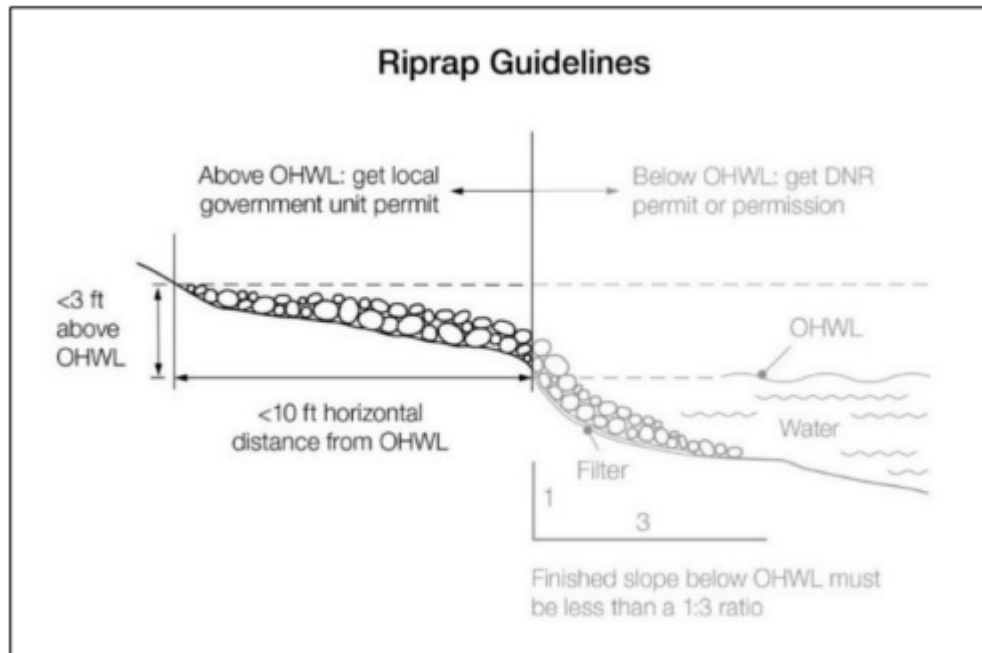
7. Shoreline Recreation Use Areas. Intensive vegetation clearing for the purpose of creating a new shoreline recreation use area within shore impact zone 1 is allowed with an approved shoreland alteration permit. The dimensions of a shoreline recreation use area shall be determined as follows:

- a. Only one shoreline recreation use area is allowed on each lot and the recreation use area must not exceed 30% of the total lot width and 25 feet landward from the ordinary high-water level in depth. The maximum width of a shoreline recreation use area created under this Article shall not exceed 60 feet.
- b. Invasive species removal or the removal of trees or branches that pose a safety hazard or are diseased is allowed;
- c. Vegetation must be maintained to screen structures with trees and shrubs so that the structures are substantially screened from view during summer, leaf-on conditions;
- d. Sand Blankets pursuant to this Code shall be located in the shoreline recreation use area;
- e. Stairways, lifts and landings pursuant to this Code shall terminate or be adjacent to the shoreline recreation use area;
- f. Permitted paths pursuant to this Code shall terminate or be adjacent to the shoreline recreation use area.

8. Vegetative Mitigation

- a. To protect water quality and safeguard sensitive areas, on-site vegetative mitigation may be required for:
 - i. A variance granted to the standards of this ordinance;
 - ii. Issuance of any conditional use permit or interim use permit where evaluation and assessment by the Planning Commission / Board of Adjustment determines the need for additional environmental protection;
- b. A no maintenance shoreline buffer shall be required for the issuance of a permit on riparian lots that exceeds 20% total lot impervious coverage subject to the following regulations:
 - i. Vegetation shall be maintained at a minimum of 8 inches high.

- ii. A no maintenance shoreline buffer shall constitute a minimum of 70% of the total shoreland width.
 - a. The following widths shall be required for land located landward from the ordinary high watermark for no maintenance shoreline buffers:
 - i. General Development Lakes: 10 feet
 - ii. Recreational Development Lakes: 15 feet
 - iii. Natural Environmental Lakes: 20 feet
 - iv. Tributary Streams: 10 feet
 - v. Forested Rivers & Remote Rivers: 20 feet
 - iii. This Section applies to reconstruction projects 400 SF or more in one year for riparian lots that exceed 20% total lot impervious coverage.
 - a. Reconstruction includes demolition and reconstruction of primary and accessory structures.
 - b. Reconstruction does not include new siding, re-roofing, replacement of deck boards, etc...
 - iv. Impervious surface additions of 160 square feet or less per year are exempt from this Section.
9. **Rip-Rap.** Placement of natural rock riprap, including the necessary grading of the shoreline and placement of a filter blanket, shall require a shoreland alteration permit and comply with the following standards:
- a. Only natural rock (cannot average less than 6 inches or more than 30 inches in diameter) may be used that is free of debris that may cause pollution or siltation. Concrete is not allowed;
 - b. A filter of crushed rock, gravel, or filter fabric material must be placed underneath the rock;
 - c. The minimum finished slope waterward of the OHWL must be no steeper than 3 to 1 (horizontal to vertical);
 - d. The riprapped area must be no more than 200 linear feet of shoreline along lakes and wetlands or, along shorelines of streams, must be less than five times the average width of the affected watercourse;
 - e. The landward extent of the riprap must be within ten feet of the ordinary high-water level;
 - f. The height of the riprap above the ordinary high-water level shall not exceed three feet (see figure below);



- g. The installation of riprap must not be located in wetlands.
- h. The installation of riprap must not result in a violation of this Code (dirt moving, historic ice ridges, vegetation alterations, recreation use areas, bluff and steep slope standards, etc.), or any other Shoreland District performance standard.
- i. The installation of riprap is subject to the requirements of, and/or permitting by, the Minnesota Department of Natural Resources (DNR).
- j. Riprap shall only be allowed when erosion is evident and landward of the ordinary high water level with a permit in situations where bio-engineering practices (vegetation) are not feasible..
- k. Permit approval for rock riprap landward of the ordinary high water level shall require establishment of a no maintenance shoreline buffer pursuant to the standards in the Vegetative Mitigation Section of this Code.

10. Boardwalks and Bridges.

- a. Boardwalks over non-public waters are permitted in SIZ1, SIZ2, and RLZ with an approved shoreland alteration permit.
- b. Boardwalks located in shoreland or non-shoreland areas are the preferred method of accessing public waters across riparian wetlands. Boardwalks constructed on posts or pilings (temporary or permanent) shall not be considered fill pursuant to MN Rules 8420.0111 Subpart 26. Boardwalks may incorporate railings and shall comply with the following standards:
 - i. Be constructed perpendicular to the shoreline to the greatest extent possible;
 - ii. Not have a canopy, roof, or be enclosed;
 - iii. Not extend into adjoining riparian use areas;
 - iv. Meet property line setbacks;
 - v. Be no wider than 6 feet;
 - vi. Structure supports, other than posts or pilings, shall be constructed above the wetland surface and decking shall be constructed a minimum of 12" above the wetland surface;

- vii. Comply with MN Rules 6115.0210 for docks and access below the OHWL ; and
- viii. Comply with the Floodplain Regulations.

11. Dirt Moving

- a. The standards in this Section shall apply to all dirt moving activities within the Shoreland District. Except as specified below, dirt moving activities shall require permits and may require a site plan, scope of work, and additional supporting documents including, but not limited to, surveys, wetland delineation reports, engineered grading plans with profile view, engineered drainage plans including erosion and sediment control and stormwater management plans.
- b. The following activities shall not require a shoreland alteration permit but must meet the provisions of this Article.
 - i. **Dirt moving associated with construction of structures.** Grading, filling, or excavations necessary for construction of structures or septic systems, if part of an approved permit, shall not require a separate shoreland alteration permit.
 - ii. **Small landscaping projects.** Placement of up to 10 cubic yards of soil for the creation of a lawn or yard as long as the fill / dirt moving is not located within a bluff impact zone or shore impact zone 1.
 - iii. **Private roads or driveways.** The construction of a driveway, access road, or parking area provided that they:
 - a. Meet the structure setback from the ordinary high-water level from public waters.
 - b. Are properly screened from public waters.
 - iv. **Approved agricultural road.** Agricultural roads for machinery, livestock crossings, or shoreline stabilization on agricultural land with a stabilization plan approved by the Engineering Department.
 - v. **Approved agricultural improvements.** The construction of livestock watering ponds, agricultural manure treatment facilities and conservation projects approved by the Natural Resource Conservation Service (NRCS), Soil and Water Conservation District (SWCD) and / or other regulatory agencies, only in the RLZ.
 - vi. **Wetland Replacement Plan.** A shoreland alteration permit is not required if a wetland replacement plan, exemption, or no-loss has been approved pursuant to Minnesota Rules Chapter 8420.
 - vii. **Normal Agricultural Practices.** To include but not be limited to tillage, planting, harvesting, fencing and proper disposal of animal mortalities pursuant to all state and federal agricultural regulations.
 - viii. **Existing Sand Blankets / Beaches.** A shoreland alteration permit shall not be required to place 10 cubic yards of sand annually on an existing sand blanket / beach on residential parcels located in the shoreland district. A shoreland alteration permit shall be required for new sand blankets or expansions to existing sand blankets and shall be subject to this Code.
- c. **Standards for Grading and Filling. Activities in the Shore Impact Zone 1 (SIZ1)** Dirt moving activities in shore impact zone 1 shall require shoreland alteration permits and meet the following standards unless the activity is exempt in this Code:
 - i. **Sand Blanket**

- a. The maximum dimensions shall not exceed 30 percent of the total lot width by 25 feet landward from the OHWL and shall be located within the shoreline recreation use area. The maximum width of a sand blanket created under this Article shall not exceed 200 feet. A sand blanket may also be located in shore impact zone 2 and the rear lot zone.
- b. The slope of the area to be covered by the sand blanket shall be less than 10 percent. The sand shall be clean with minimal amounts of organic materials.
- c. Sand blankets shall be limited to 10 cubic yards annually with a shoreland alteration permit.

ii. **Upland Fill.**

- a. For residential properties in the shoreland district the following standards shall apply:
 - i. A maximum of 30 cubic yards of dirt moving may be permitted.
- b. For commercial and industrial properties in the shoreland district the following standards shall apply:
 - i. General Development Lakes: 30 cubic yards of dirt moving may be permitted for each 100 feet of shoreline width.
 - ii. Recreational Development Lakes: 30 cubic yards of dirt moving may be permitted for each 150 feet of shoreline width.
 - iii. Natural Environment Lakes: 30 cubic yards of dirt moving may be permitted for each 200 feet of shoreline width.
 - iv. Natural Environment – Special Shallow Lakes: 30 cubic yards of dirt moving may be permitted for each 250 feet of shoreline width.
 - v. Forested Rivers: 30 cubic yards of dirt moving may be permitted for each 100 feet of shoreline width.
 - vi. Tributary Streams: 30 cubic yards of dirt moving may be permitted for each 200 feet of shoreline width.
 - vii. Total cubic yards of dirt moving in SIZ1 includes that placed as a sand blanket, if applicable.
 - viii. Applications for all properties to move larger quantities of dirt for all public water classifications in SIZ1 shall be processed as conditional uses.
- c. **Wetland Fill.** No wetland fill shall be allowed in SIZ 1 except as allowed under MN Rules Chapter 8420.0420 Subpart 8 A (1) d.

iii. **Annual ice ridges.** Annual ice ridges may be regraded to their original shoreline contour without a shoreland alteration permit provided that the work is completed in the year in which the annual ice ridge occurred. Any such regrading shall meet the following standards:

- a. There shall be no topsoil or vegetative matter deposited in the lake.

- b. Any dirt moving from re-grading the annual ice ridge that is used on the remainder of the property shall require a shoreland alteration permit.
 - c. Depositing any sand below the OHWL is subject to DNR public waters permit rules.
 - d. Temporary erosion and sediment control best management practices shall be implemented.
 - iv. **Historic Ice Ridges.** On those ice ridges with well-established vegetative cover, alterations for lake access shall require a shoreland alteration permit and comply with the following standards:
 - a. One alteration site is allowed per conforming residential lot, single nonconforming lot of record, or per group of contiguous nonconforming lots in the same ownership.
 - b. On residential lots, the bottom width shall not exceed 15 feet, with side slopes no steeper than 2:1 at each end.
 - c. On waterfront commercial lots, the maximum bottom width shall be 25 feet with 2:1 side slopes at each end.
 - d. Berms of not less than 12 inches above grade level or diversions not less than 12 inches below grade level shall be placed landward of all ice ridge alterations to prevent erosion from upland runoff.
 - e. A stormwater management plan must be approved by the City Engineer prior to any dirt moving.
 - f. All disturbed material shall be graded landward or removed from the site.
 - g. Any alteration below the OHWL may require approval from the Department of Natural Resources and / or U.S. Army Corps of Engineers.
 - d. **Upland Fill in the Shore Impact Zone 2 (SIZ2).** Dirt moving activities in shore impact zone 2 shall require shoreland alteration permits and meet the following standards unless the activity is exempt in this Code:
 - i. For residential properties in the shoreland district the following standards shall apply:
 - a. A maximum of 50 cubic yards of dirt moving may be permitted. Applications to move larger quantities shall be processed as conditional uses.
 - ii. For commercial and industrial properties in the shoreland district the following standards shall apply:
 - a. General Development Lakes: 50 cubic yards of dirt moving may be permitted for each 100 feet of shoreline width.
 - b. Recreational Development Lakes: 50 cubic yards of dirt moving may be permitted for each 150 feet of shoreline width.
 - c. Natural Environment Lakes: 50 cubic yards of dirt moving may be permitted for each 200 feet of shoreline width.
 - d. Natural Environment – Special Shallow Lakes: 50 cubic yards of dirt moving may be permitted for each 250 feet of shoreline width.

- e. Forested Rivers: 50 cubic yards of dirt moving may be permitted for each 100 feet of shoreline width.
 - f. Tributary Streams: 50 cubic yards of dirt moving may be permitted for each 200 feet of shoreline width, including that placed as a sand blanket, if applicable. Applications to move larger quantities shall be processed as conditional uses.
 - g. Total cubic yards of dirt moving in SIZ2 includes that placed as a sand blanket, if applicable.
 - h. Applications for all properties to move larger quantities of dirt for all public water classifications in SIZ2 shall be processed as conditional uses.
 - iii. **Wetland Fill.** No wetland fill shall be allowed in SIZ 2 except as allowed under MN Rules Chapter 8420.0420 Subpart 8 A (1) d.
- e. **Upland Fill in the Rear Lot Zone (RLZ).** Dirt moving activities in the rear lot zone shall require shoreland alteration permits and meet the following standards and meet the following standards unless the activity is exempt in this Code:
 - i. For residential properties in the shoreland district: A maximum of 100 cubic yards of dirt moving may be permitted per calendar year.
 - ii. For commercial and industrial properties in the shoreland district the following standards shall apply:
 - a. General Development Lakes: 100 cubic yards of dirt moving may be permitted for each 100 feet of shoreline width.
 - b. Recreational Development Lakes: 100 cubic yards of dirt moving may be permitted for each 150 feet of shoreline width.
 - c. Natural Environment Lakes: 100 cubic yards of dirt moving may be permitted for each 200 feet of shoreline width.
 - d. Natural Environment – Special Shallow Lakes: 100 cubic yards of dirt moving may be permitted for each 250 feet of shoreline width.
 - e. Forested Rivers: 100 cubic yards of dirt moving may be permitted for each 100 feet of shoreline width.
 - f. Tributary Streams: 100 cubic yards of dirt moving may be permitted for each 200 feet of shoreline width.
 - g. Total cubic yards of dirt moving in RLZ includes that placed as a sand blanket, if applicable.
 - h. Applications for all properties to move larger quantities of dirt for all public water classifications in RLZ shall be processed as conditional uses.
 - iii. **Wetland Fill.** No wetland fill shall be allowed in RLZ except as allowed under MN Rules Chapter 8420.0420 Subpart 8 A (1) d.
- f. **General Dirt Moving Standards.** All dirt moving activities shall comply with the following standards.
 - i. No more than one dirt moving permit shall be allowed on the same property in any three-year period. This limitation shall apply to each of the SIZ1, SIZ2 and RLZ areas separately.
 - ii. Soil used as fill shall be free of state-regulated contaminants.

- iii. Exposure of bare ground. Dirt moving must be designed to ensure that the smallest amount of bare ground is exposed for the shortest period of time.
 - iv. Erosion and sediment control best management practices as required by the Department shall be used during and immediately after construction.
 - v. Permanent vegetative coverage shall be established within 21 days of the completion of construction, or when vegetation establishment is not possible, other protective measures such as erosion control fabric or mulch blankets shall be installed until permanent vegetation can be established.
 - vi. Dirt moving in a bluff impact zone is prohibited, except for the placement of stairways, lifts, or landings permitted under this Code.
 - vii. Steep slope stabilization. Dirt moving on steep slopes may be permitted with a stormwater and erosion control plan approved by the City Engineer.
- 12. Removal of Natural Vegetation.** Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this Code are exempt from the vegetation alteration standards that follow:
- a. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this Code, respectfully, is allowed subject to the following standards:
 - i. Intensive vegetation clearing within the shore impact zone 1, shore impact zone 2, and bluff impact zones and on steep and long gradual slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - ii. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, and beach and watercraft access areas, provided that:
 - a. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - b. Along rivers, existing shading of water surfaces is preserved; and
 - c. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- 13. Placement and Design of Roads, Driveways, and Parking Areas.**
- a. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
 - b. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and SIZ1, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.
 - c. The maximum impervious surface limits for the lot shall not be exceeded. Permeable pavers are considered impervious.
- 14. Watercraft Access Ramps.** Watercraft access ramps, approach roads, and access related parking areas require shoreland alteration permits and shall comply with the following standards:

- a. Are permitted for private residential lots only on lakes without Public Accesses.
 - b. May be permitted for water-oriented commercial uses on any lake classified General Development or Recreational Development.
 - c. Shall not include asphalt in shore impact zone 1.
 - d. Shall not exceed 15 feet in width from the lake to the structure setback line.
 - e. Construction complies with all stormwater management provisions of this Code.
 - f. The maximum impervious surface limits for the lot are not exceeded. Permeable pavers are considered impervious.
15. **Connections to Public Waters.** Excavations, where the intended purpose is connection to public water, such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner of Natural Resources has approved the proposed connection to public waters.
16. **Use of Fertilizer.** The Use of fertilizer, pesticides, or animal wastes in shoreland districts must conform to Minnesota Statutes, chapters 18B, 18C, 18D, and 103H, and be consistent with the latest best management practices developed for such use by the Minnesota Department of Agriculture and Pollution Control Agency.

J. Shoreland Planned Unit Developments

1. **Purpose.** To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.
2. **Types of PUDs Permissible.** Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of this ordinance is allowed if the standards in this Section are met.
3. **Processing of PUDs.** Planned unit developments in the shoreland district must be processed as a conditional use and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in this Section. Approval cannot occur until all applicable environmental reviews are complete.
4. **Density Determination.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.
 - a. Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

Table 515-5-7.1. Density Analysis Tiers.

Waterbody Classification	No Sewer (ft)		Sewer (ft)
General Development Lakes – 1st tier	200		200
General Development Lakes – all other tiers	267		200
Recreational Development Lakes	267		267
Natural Environment Lakes	400		320
All Rivers	300		300

- b. Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all road rights-of way or easements, wetlands, bluffs, or land below the ordinary high-water level of public waters.
- c. Step 3. Determine Base Density:
 - i. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width or river frontage by the minimum single residential lot width.
 - ii. For commercial PUDs:
 - a. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
 - i. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.
 - ii. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

- iii. For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.
- iv. For recreational vehicles, campers or tents, use 400 sf.
- b. Select the appropriate **floor area/dwelling site area ratio** from the following table for the floor area or dwelling site area determined in Step 3: Determine Base Density for Commercial PUDs.

Table 515-5-7.2. Floor Area/ Dwelling Site Area Ratio.

Inside Living Floor Area or Dwelling Site Area (sf)	General Development Lakes w/Sewer – all tiers General Development Lakes w/no sewer – 1 st tier Agricultural, Urban and Tributary Rivers	General Development Lakes w/no sewer – all other tiers Recreational Development Lakes Forested and Transition Rivers	Natural Environment Lakes Remote Rivers
≤ 200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
≥ 1,500	.150	.075	.038

- c. Multiply the suitable area within each tier determined in Step 2, Calculate Suitable Area for Development, by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.
 - i. Divide the total floor area or dwelling site area for each tier calculated in the above paragraph by the average inside living floor area for dwelling units or dwelling site area determined in Step 3 for commercial PUD's. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- iii. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.
- d. Step 4. Determine if the Site can Accommodate Increased Density:

- i. The following increases indicated in *Table 515-5-7.3* to the dwelling unit or dwelling site base densities determined in Step 3, Determine Base Density, are allowed if the design criteria of this Section are satisfied as well as the following standards:
 - a. Structure setbacks from the ordinary high water level:
 - i. Are increased to at least 50 percent greater than the minimum setback; or
 - ii. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

Table 515-5-7.3. Increase Maximum Density.

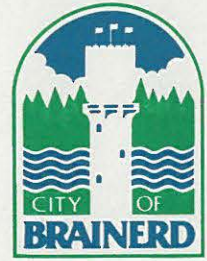
Shoreland Tier	Maximum density increase within each tier (percent)
1st	50
2nd	100
3rd	200
4th	200
5th	200

5. Design Criteria. All PUDs must meet the following design criteria.

- a. General Design Standards.
 - i. All residential planned unit developments must contain at least five dwelling units or sites.
 - ii. On-site water supply and sewage treatment systems must be centralized and meet the standards of this ordinance. Sewage treatment systems must meet the setback standards of *Table 515-2-22.2. S Dimensional Standards*.
 - iii. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
 - iv. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in *Table 515-2-22.2. S Dimensional Standards*.
 - v. Shore recreation facilities:
 - a. Must be centralized and located in areas suitable for them based on a suitability analysis.
 - b. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
 - c. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
 - vi. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

- vii. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
 - viii. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in this ordinance and are centralized.
- b. Open Space Requirements.
 - i. Open space must constitute at least 35 percent of the total project area and must include:
 - a. Areas with physical characteristics unsuitable for development in their natural state; Areas containing significant historic sites or unplatted cemeteries; Portions of the SIZ preserved in its natural or existing state as follows:
 - i. For existing residential PUD's, at least 50 percent of the SIZ.
 - ii. For new residential PUDs, at least 70 percent of the SIZ.
 - iii. For all commercial PUD's, at least 50 percent of the SIZ.
 - ii. Open space may include:
 - a. Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and
 - c. Non-public water wetlands.
 - iii. Open space shall not include:
 - a. Dwelling sites or lots, unless owned in common by an owners association;
 - b. Dwelling units or structures, except water-oriented accessory structures or facilities;
 - c. Road rights-of-way or land covered by road surfaces and parking areas;
 - d. Land below the OHWL of public waters; and
 - e. Commercial facilities or uses.
- c. Open Space Maintenance and Administration Requirements.
 - i. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:
 - a. Commercial uses (for residential PUD's);
 - b. Vegetation and topographic alterations other than routine maintenance;
 - c. Construction of additional buildings or storage of vehicles and other materials; and
 - d. Uncontrolled beaching of watercraft.
- d. Erosion Control and Stormwater Management.

- i. Erosion control plans must be developed and must be consistent with the provisions of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
 - ii. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.
 - a. For residential PUDs, impervious surface for the entire project site must not exceed 25%.
 - b. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area.
6. **Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:
 - a. Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;
 - b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;
 - c. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - i. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - ii. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
 - iii. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
 - d. Existing dwelling unit or dwelling site densities that exceed standards of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.



www.ci.brainerd.mn.us

To: Jacob Frie, Area Hydrologist, Minnesota DNR
From: City of Brainerd
Date: May 7, 2026
Re: Request for Implementation Flexibility – Brainerd Shoreland Ordinance

Mr. Frie,

In preparation of the City of Brainerd's draft shoreland overlay zoning ordinance being sent to the DNR for final review, this correspondence is intended to document the City's request for implementation flexibility in accordance with Minnesota Rules 6120.2800 Subp. 3. Flexibility from the State's shoreland rule provisions are requested due to unique characteristics of land in Brainerd that abuts public water bodies.

The shoreland areas are primarily along three public water bodies in Brainerd (Rice Lake, Gilber Lake, and the Mississippi River) and are nearly fully developed. Allowing flexibility for development and redevelopment along the shoreland, specifically in the Traditional and Contemporary Neighborhood Zoning Districts, will result in new restoration efforts, improved management of stormwater runoff, and enhanced stewardship of the lakes. The City is specifically requesting an increase impervious surface maximum requirements and reduced lot dimensional standards for non-riparian sewered lots in the subject zoning districts. Details containing all the requested special standards/flexibility are contained in an accompanying attachment. The attachment also includes offsetting/higher standards in exchange for the requested flexibility.

The City looks forward to continue working with the DNR on establishing reasonable standards that both accommodate future development and protects Brainerd's shoreland. Please contact me if you have any questions 218-454-3408.

Thank you,

James L. Kramvik

Community Development Director

PROPOSED HIGHER STANDARDS

Watercraft access ramps, approach roads, and access related parking areas require shoreland alteration permits and are permitted for private residential lots only on lakes without Public Accesses to help stop the spread of aquatic invasive species. (Section J.13 of Appendix A)

Prohibition on use of permeable pavement to exceed standards. (Sections J.2,3,12, and 13 Appendix A)

Requiring that a lot must be at least 100 feet from the OHWL to qualify as a non-riparian lot. (Section H Appendix A)

Riparian properties may exceed 15% impervious surface with an approved and implemented stormwater plan. (Section I.2 Appendix A)

Riparian properties may exceed 20% impervious surface with a no maintenance shoreline buffer. Impervious surface additions of 160 square feet or less per year are exempt. Reconstruction projects 400 SF or more per year on riparian properties exceeding 20% impervious surface also require a no maintenance shoreline buffer. (Section J.8 Appendix A)

Limit water orientated accessory structures in SIZ1 to 120 SQFT with a 20 foot setback. (Section J.5 Appendix A)

Enhanced riprap provisions. (Section J.9 Appendix A)

All guest cottages or guest quarters require a no maintenance buffer. (Section J.3.b Appendix A)

PROPOSED DEVIATIONS

Allow for a combined 400 SQFT for patios, pools, and hot tubs in SIZ2 with an approved and implemented stormwater plan. (Section J.2 Appendix A)

Allow for reduced lot sizes and lot widths for GD Lakes for lots that are non-riparian and sewered in the Traditional Neighborhood and Contemporary Neighborhood Zoning Districts. (Sections H.I&J Appendix A)

Allow for increased impervious surface maximum requirements for lots that are non-riparian and sewered in the Traditional Neighborhood and Contemporary Neighborhood Zoning Districts. (Section H.R Appendix A)

Allow for 35' primary structures in residential districts. (Section H.S Appendix A)

Allow for (1) guest cottage on a single family lots on lots that meet lot size requirements (Section J.3 Appendix A).

Allow for 35% open space for Planned Unit Developments. (Section J.5.b Appendix B)

STATISTICAL ANALYSIS

Staff reviewed one hundred twenty-one properties located in northeast Brainerd that are non-riparian sewerage lots located in the Rice Lake Shoreland Overlay District. Rice Lake is considered a General Development Lake, which means any property located within 1,000 FT of the ordinary high-water level is in the shoreland overlay district and is subject to additional requirements.

properties statistics:

Lot frontage (mean) - 77.94 FT

Lot frontage (mode) - 50 FT (52 properties)

Lot area (mean) - 12,128.82 SF

Lot area (mode) - 6,500 SF – 7,500 SF (59 Properties)

Impervious surface (mean) - 3196.51 SF

Impervious surface % (mean) - 31.48%

Properties Exceeding 40% - 20 Properties

Ecological and Water Resources
1601 Minnesota Drive
Brainerd, MN 56401

May 12, 2026

James Kramvik
Community Development Director
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Re: Conditional Approval of City of Brainerd's Shoreland Ordinance

Dear James Kramvik:

Thank you for sending your proposed shoreland ordinance to the DNR for conditional approval review. I am pleased to inform you that the proposed ordinance is substantially compliant with the statewide rules (MR 6120.2500 – 6120.3900) and hereby approved, provided the conditions of approval in this letter are met.

Ordinance Evaluation

The City of Brainerd submitted a proposed shoreland ordinance to DNR for preliminary on July 31, 2025. Then, on December 20, 2025, the City requested to implement shoreland flexibility standards pursuant to Mn Rule 6120.2800 subp. 3. The DNR provided preliminary comment review letters on three occasions: 9/11/2025 for the new shoreland overlay district proposal only and on both 3/11/2026 and 4/9/2026 focused solely on the City's request to implement shoreland flexibility standards. The City of Brainerd's Planning Commission reviewed various versions of the proposed ordinance several times, including formal review of the proposed implementation flexibility on 3/18/2026. Based on that review and additional negotiations with DNR, the City of Brainerd's Planning Commission recommended approval of the proposed ordinance with implementation flexibility and agreed-upon offsetting higher standards at the April 15, 2026 meeting.

We have reviewed this ordinance and requested implementation flexibility for compliance with the state shoreland rules (Minn. R. 6120.2500 – 6120.3900) and are providing conditional approval as follows.

Conditions of Approval

The following conditions must be met before the DNR will issue final approval:

1. Ongoing compliance with the following terms of implementation flexibility.

Terms of Implementation Flexibility

The terms of implementation flexibility, in accordance with Minn. R. 6120.2800 Subp. 3, are detailed below. These terms of implementation flexibility are also conditions of approval. If any of the offsetting higher standards are eliminated or protection levels reduced in future ordinance amendments without

DNR approval, approval of implementation flexibility is rescinded. The authority and process under which the DNR evaluates and approves deviations is outlined in Minnesota Rule 6120.2800, Subp 3.

Proposed Deviations:

1. Within the shoreland overlay district, on only non-riparian General Development lake lots within the sewered Contemporary Neighborhood (CN) and Traditional Neighborhood (TN) zoning districts, reduce lot sizes in the following ways (sections H.I & J Appendix A):
 - Single family: from state minimum 10,000 sq. ft to a proposed 7,000 sq. ft
 - Duplex: from a state minimum 17,500 sq. ft to a proposed 10,000 sq. ft
 - Triplex: from a state minimum 25,000 sq. ft to a proposed 13,000 sq. ft
 - Quad: from a state minimum 32,500 sq. ft to a proposed 16,000 sq. ft
2. Within the shoreland overlay district, on only non-riparian General Development lake lots within the sewered Contemporary Neighborhood (CN) and Traditional Neighborhood (TN) zoning districts, reduce lot widths in the following ways (sections H.I & J Appendix A):
 - Single family: from state minimum 75' to a proposed 50'
 - Duplex: from a state minimum 135' to a proposed 75'
 - Triplex: from a state minimum 190' to a proposed 100'
 - Quad: from a state minimum 245' to a proposed 125'
3. Within the shoreland overlay district, on only non-riparian General Development lake lots within the sewered Contemporary Neighborhood (CN) and Traditional Neighborhood (TN) zoning districts, increase impervious surface maximums in the following way (Section H.R Appendix A):
 - From a state maximum 25% to a proposed 40% allowance.
4. On all riparian lots within the Shoreland Overlay District:
 - Allow for a total combination of 400 sq. ft patio, pool, and/or hot tub in SIZ 2 where state minimum standards do not allow for structures to be anywhere within the structural setback from the OHW of the particular shoreland classified lake or river (unless as a water-oriented accessory structure as defined by state shoreland rules) (Section J.2 Appendix A).
5. On all lots within the shoreland overlay district, allow guest cottages (max. 15 ft tall) and guest quarters (max. 35 ft tall) meeting the following provisions (Section J.3 Appendix A):
 - Must be located on existing lots of record that meet minimum size and width requirements for single-family lots. This exceeds minimum state rules requirements that guest cottages only be allowed on duplex-sized lots.
6. Allow for 35' total height of primary structures in residential areas in the shoreland overlay district, where the state's maximum allowance is 25' (Section H.S Appendix A).
7. Allow for 35% open space for Planned Unit Developments (PUDs) within the shoreland overlay district where the state's minimum allowance is 50% (Section J.5.b Appendix B).

Proposed Higher Standards

1. Require an approved and implemented stormwater management for all patio/hot tub/pool permits >250 sq. ft in size located on riparian lots in SIZ 2 (Section J.2 Appendix A).
2. Require stormwater management plans to be submitted and implemented for approved permits on riparian properties exceeding 15% impervious surface coverage (Section I.2 Appendix A).
3. Only allow watercraft access ramps, approach roads, and access related parking areas (with a permit) on lakes without public access (Section J.13 Appendix A).
4. Prohibit the use of permeable pavement to exceed local impervious standards (Sections J.2,3,12, and 13 Appendix A).

5. Require that a lot must be at least 100 feet from the OHWL to qualify as non-riparian (Section H Appendix A).
6. Require no maintenance buffers on 70% of the width of shoreline lots to be implemented for approved permits for riparian properties whose properties exceed 20% impervious surface coverage in the shoreland overlay district (Section J.8 Appendix A). The following projects will be exempt from the above requirement:
 - a. All permit requests totaling less than 160 sq. ft in size per-year.
 - b. Reconstructions of existing structures of less than 400 sq. ft in size per-year.
7. Limit the size of water-oriented accessory structures to 120 sq. ft and minimum 20 ft from OHW (Section J.5 Appendix A).
8. Enhance riprap standards consisting of the following (Section J.9 Appendix A):
 - a. Requiring that riprap may only be approved if both erosion is present and bioengineering practices are not feasible.
 - b. Requiring that any approved riprap must also include the establishment of a no-maintenance buffer pursuant to the Vegetative Mitigation section of the city's code.

Next Steps

Following are the steps for completing and receiving final DNR approval for your amendment:

1. The city council adopts the amendment.
2. Email the completed Ordinance Processing Checklist (attached) and the documents identified on the checklist within 10 days of city council adoption to:
 - a. Jacob Frie, Jacob.frie@state.mn.us.
 - b. Ordinance.review.dnr@state.mn.us
3. We will review the amendment adopted by the city council for consistency with the above conditions.
4. If the adopted amendments are consistent with the conditions, I will send you a "final approval" letter. State rules require DNR final approval of shoreland ordinances and amendments for those ordinances to be effective.

A shoreland ordinance is an important land use regulation that helps to protect surface water quality, near shore habitat, and scenic character of Minnesota's public waters. We appreciate your efforts to protect these resources for all present and future Minnesotans. Jacob Frie is available to assist with ordinance technical guidance and to consult with you on other land and water-related projects.

Sincerely,

Darrin Hoverson

Digitally signed by Darrin
Hoverson
Date: 2026.05.12 15:53:31 -05'00'

Darrin Hoverson

MN DNR – Division of Ecological and Water Resources - District Manager

Attachments:

Proposed City of Brainerd Shoreland Ordinance materials
Ordinance Processing Checklist

ec: Jacob Frie, DNR Area Hydrologist
Ordinance.review.dnr@state.mn.us

NOTICE OF HEARING

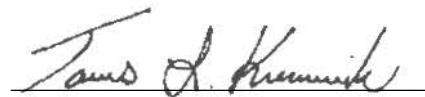
Notice is hereby given that the City of Brainerd Planning Commission will be conducting a public hearing to consider the amendment of Sections 530 Shoreland Management Regulations of the Brainerd City Code and 515-2 Brainerd Zoning Districts, 515-5 Rules and Administration, and 515-6 Rules and Definitions of the Brainerd Zoning Code. The purpose of this proposed Ordinance is to update our current regulations to meet MN State Statute and to protect the quality of surface waters and preserve the environmental and economic values of shorelands by regulating development and land use along lakes and rivers. These regulations manage aspects like lot sizes, building setbacks, and land alterations to prevent pollution, minimize flood damage, maintain natural characteristics, and ensure the wise use of water resources.

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, May 20th, 2026 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 6th day of May, 2026



James Kramvik
Community Development Director

Publication Date: May 9th, 2026