



## PLANNING COMMISSION AGENDA

City of Brainerd, Minnesota  
City Hall, 501 Laurel Street, Council Chambers  
Wednesday, June 17, 2026 @ 6:00 PM

The public is invited to attend these meetings in person.

Attend by Phone: 1-844-992-4726 Meeting Access Code:

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 \_\_\_ J. Kramer \_\_\_ J. Grecula \_\_\_ D. Peterson \_\_\_ J. Powell \_\_\_ T. Erickson \_\_\_ D.  
Gorham

3. **Pledge of Allegiance**

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

5. **Approval Of Minutes**

A. **Draft minutes from the May 20th, 2026 Meeting**

6. **Public Forum**

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

7. **Unfinished Business**

A. **Public Hearing - Floodplain Ordinance**

8. **New Business**

A. **Review Planning Commission Itinerary**

B. **Subdivision Variance - Oak Street (Withdrawn)**

9. **Staff Reports**

(Verbal: Any Updates since Packet)

10. **Commission Member Reports**

11. **Adjourn**

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MISSION

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

**PLANNING COMMISSION**  
Wednesday, May 20<sup>th</sup>, 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 was Community Development Director Kramvik.

**#3 Pledge of Allegiance**

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

**#4 Oath of Office**

Community Development Director Kramvik administered the Oath of Office to Commissioner Kramer. Commission members welcomed Mr. Kramer to the Commission.

**#5 Approval of Agenda**

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND GRECULA, DULY CARRIED, TO AMEND THE AGENDA TO RECUSE COMMISSIONERS DUVAL, GRECULA AND KRAMER FROM VOTING ON ITEM #8C, DUE TO CONFLICT OF INTEREST.

**#6 Approval of Minutes**

MOVED AND SECONDED BY COMMISSIONERS ERICKSON AND GRECULA, DULY CARRIED, TO APPROVE THE MINUTES FROM THE APRIL 15<sup>TH</sup>, 2026 SPECIAL MEETING AND THE APRIL 15<sup>TH</sup>, 2026 REGULAR MEETING.

**#7 Public Forum**

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

No one came forward.

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

**#8 New Business**

**8a. Consider Interim Use Permit Renewal for Short Term Rental – 1123 15<sup>th</sup> Ave NE**

Community Development Director Kramvik gave a brief review of this renewal for an Interim Use Permit for a short-term rental. There have been no complaints or calls regarding this

property to the department this year. Community Development Director Kramvik indicated a letter from a neighbor was received and distributed to the Commission objecting to the approval of this renewal. In response to this letter, Community Development Director Kramvik contacted the Police Department for any records of calls to the property and was informed there was one unsubstantiated call for noise within the past two years. He suggests no other changes to what was originally submitted.

Commissioners' questions were asked regarding ordinances, conduct on premises, and local responsible agents.

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

The Chair recognized Mike Fish, who is the property manager and resides in Pierz. He indicated there is a noise meter installed near the hot tub area and deck. This noise meter had never gone off and stated he was on the phone with the guests when the police showed up to the one call received. The guests were in the hot tub talking and the neighbor complained about noise. He stated he has done everything he can to accommodate the neighbor's requests - there have been no substantiated issues, and all house rules have been followed.

The Chair recognized Cheryl Caitland, 1208 15<sup>th</sup> Ave NE, who read a letter representing the property owners in the neighborhood. She indicated the neighbors do not want a VRBO as their privacy, peace and quiet are being violated. She said every weekend is a party weekend with multiple cars and activity taking place. She wants the committee to vote no and terminate the

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

Commissioner Duval stated a lot of thought and time went into the creation of the short-term rental ordinance and there are steps in place to address any issues that may arise.

Commissioner Erickson requested that staff clarify the requirement of having a local property manager, which was determined an agent must be within 50 miles of the property. Mr. Fish is approximately 30 miles from the location.

Commissioner Gorham indicated living in a neighborhood in the city has noise and activity; he said he lives in town, and would sometimes enjoy less noise, but you can't get away from that. He felt we have a good process that can take care of the concerns.

MOVED AND SECONDED BY COMMISSIONERS ERICKSON AND PETERSON, DULY CARRIED, TO RECOMMEND APPROVAL OF THE INTERIM USE PERMIT RENEWAL TO OPERATE A SHORT-TERM RENTAL AT 1123 15<sup>TH</sup> AVE NE WITH THE CONDITIONS AS PRESENTED.

CDD Kramvik indicated this will be heard at the City Council meeting June 1<sup>st</sup>, 2026 at 7:30 pm for a final decision.

**8b. Consider Interim Use Permit for Short Term Rental – 1526 14<sup>th</sup> Ave NE**

Community Development Director Kramvik explained the details of this new application for an Interim Use Permit to operate a short-term rental. The applicant indicated this will be operated as a Vacation Dwelling Unit (VDU): a rental where the property owner is not permanent resident of the unit, and the entire unit is rented without the property owner present.

The Chair opened the public hearing at 6:19 pm.

The Chair recognized Hunter Pinke, who owns the property with his parents and has applied for the IUP to operate a short-term rental. He explained he was injured in 2019 and now needs to use a wheelchair full time. He has noticed the lack of handicapped accessible VRBO's and the low number of rooms available in hotels. It is a passion of his to expand the availability to all occupants in VRBO's and this is his first one located in Brainerd. The home has recently gone through a complete remodel to allow for handicapped accessible accommodation. All the conditions will be met that are expected of them.

The Chair recognized Mike Fish who stated it is true that handicapped accessible units are very rare, as he would like to see an increase in offerings.

The Chair closed the public hearing at 6:22 pm.

MOVED AND SECONDED BY COMMISSIONERS PETERSON AND GRECUA, DULY CARRIED, TO RECOMMEND APPROVAL OF THE INTERIM USE PERMIT TO OPERATE A SHORT-TERM RENTAL AT 1526 14<sup>TH</sup> AVE NE WITH THE CONDITIONS AS PRESENTED.

CDD Kramvik indicated this will be heard at the City Council meeting June 1<sup>st</sup>, 2026 at 7:30 pm for a final decision.

**8c. Consider Rezoning, Conditional Use Permits, and Variance Requests for 50-Unit Multi-Family Apartment – Wright Street**

Community Development Director Kramvik stated the Central Minnesota Housing Partnership and the HRA have applied for several zoning permits to be able to construct a 50-unit multifamily apartment building on Wright Street. The property is zoned as General Industrial and would need to be rezoned as a Contemporary Neighborhood 2, along with a future land use map amendment, conditional use permit, and variance requests to proceed. Each permit process was explained to the Commission.

The Chair opened the public hearing at 6:37 pm.

The Chair recognized Jason Krebsbach, Director of Community Development, who stated the company is an affordable housing corporation. He indicated they have property in Baxter and Brainerd that they currently manage and work with many properties in less than desirable locations due to the need for affordable housing. He explained the process that they will take if these permits are recommended for approval. He said the building is designed and built to be energy saving and noise mitigating and there should be no issues with noise complaints.

The Chair recognized Bret Mattheisen, Director of Technology at Just for Krypto, which is located next to the potential parcel this development would be built on. He brought a sound meter to the property line, and it measured 69 decibels and it measured 65 decibels at Kitty Hawk Court. He does not see how that can be mitigated to meet the requirements of residential use. He submitted a letter of opposition earlier and listed the negative effects this would have on the industrial park. He stated the City is just asking for complaints if approved because there will be complaints.

The Chair recognized Gary Thiesse, 12437 Oakridge Rd, who said he owns the property to the north. He stated this is industrial property and should remain industrial. He has had problems with people trespassing on to his property and he believes this would add to the issues.

The Chair recognized Luke Shipman, 4191 CR 45 and his business is located at the edge of the property. He stated this would increase the theft problems at the business.

The Chair recognized Eric Charpentier, Brainerd HRA Director, who detailed why this property was chosen and the procedures followed in order to get to this point.

The Chair recognized Samantha, 14872 Nokay Hall Rd., who owns Brian's Welding that abuts this parcel. She had questions on the sound study and knows it is very loud during the summer. She also stated they have had issues with theft and have seen people at the Shipman's property as well.

The Chair recognized Gary Thiesse, 12437 Oakridge Rd, who said years ago, he used to farm that site and is surprised that they would want to build there. It used to be a large swamp hole east of the Just for Krypto and he would get his tractor stuck.

The Chair closed the public hearing at 6:50 pm.

Commissioner Peterson stated this is not the right location to construct housing. It will take away the future limits on what type of businesses can build there. This property is zoned industrial to create industrial uses with jobs, manufacturing, etc. He said if housing is constructed in this industrial area, it will create issues later.

Commissioner Erickson indicated all future applicants for the other parcels will then be required to perform a sound study as well as any existing business that may want to expand. The applicant said it was near other residential uses, meaning the two mobile home parks (Stoneybrook and Meadowview). They are still quite a distance from this parcel and should not be considered as nearby. He feels that we would be creating zoning and use conflicts by approving these applications.

Commissioner Gorham made clear that this is indeed spot zoning. He feels this project is being driven due to the cheap price of the land. This is an industrial area with barbwire fencing, and industrial noise. He stressed there is no place for families or children to walk or play outdoors and there would be a constant hum created by Just for Krypto. This project would mock the future land use map if approved.

MOVED AND SECONDED BY COMMISSIONERS PETERSON AND ERICKSON, DULY CARRIED, TO RECOMMEND DENIAL OF THE REZONING, THE FUTURE LAND USE MAP AMENDMENT, CONDITIONAL USE PERMIT REQUESTS FOR A MULTIFAMILY APARTMENT AND TO EXCEED THE LOT SIZE AND LOT WIDTH IN THE CN-2 DISTRICT, AND THE VARIANCE REQUEST TO NOT MEET THE OFF-STREET PARKING REQUIRMENTS BASED ON THE COMMENTS AND THE FINDINGS PROVIDED BY THE PLANNING COMMISSION.

CDD Kramvik indicated this will be heard at the City Council meeting June 1<sup>st</sup>, 2026 at 7:30 pm for a final decision.

**8d. Review Section 515-2-24 – Floodplain Overlay District**

Community Development Director Kramvik reviewed the proposed ordinance staff has been working on with the MnDNR. He stated this is open for discussion to review and to be ready for a public hearing at the June 17<sup>th</sup> Planning Commission meeting.

Discussion took place. It was determined to proceed with a public hearing at the next meeting.

## **#9 Unfinished Business**

### **9a. Public Hearing - Shoreland Ordinance**

Community Development Director Kramvik indicated the Commission has been working on this ordinance for several months. He stated the ordinance is ready to hold the public hearing and adopt the ordinance as presented.

Discussion took place.

The Chair opened the public hearing at 7:14 pm.

No one came forward.

The Chair closed the public hearing at 7:14 pm.

MOVED AND SECONDED BY COMMISSIONERS DUVAL AND ERICKSON, DULY CARRIED, TO RECOMMEND APPROVAL OF THE SHORELAND ORDINANCE AS PRESENTED.

## **#10 Staff Reports**

Community Development Director Kramvik made the following updates:

- Staff and Commissioner Duval have been meeting remotely every month with Bolton & Menk on the Comprehensive Plan update. There will be a presentation to the Commission at the July meeting.

## **#11 Commission Member Reports**

Commissioner Kramer appreciates the opportunity to serve and help the Commission.

Commissioner Erickson participates in a planning team regarding the HWY 210 reconstruction and will give updates as needed.

## **#12 Adjournment**

MOVED AND SECONDED BY COMMISSIONERS GRECUA AND ERICKSON, DULY CARRIED, TO ADJORN AT 7:18 PM.

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Don Gorham, Planning Commission Chair

# MEMO



**TO:** Planning Commission

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

**DATE:** June 17<sup>th</sup>, 2026

**RE:** Floodplain Overlay District Memo

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## INTRODUCTION

The Floodplain 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.

The Planning Commission reviewed a draft ordinance at the May 20<sup>th</sup> meeting and recommended holding the public hearing at the June 17<sup>th</sup> meeting. Staff made a few changes from the last meeting after review with the DNR. The red line version is also attached to the agenda item for review.

## STAFF RECOMMENDATION

- 1) Hold a public hearing.
- 2) Motion to recommend the attached ordinance as presented.

**ORDINANCE  
NO. 16XX**

**AN ORDINANCE AMENDING SECTION 515-2 ZONING DISTRICTS OF THE ZONING CODE**

WHEREAS, a public hearing was held by the Planning Commission as required by the Zoning Code, on June 17th, 2026

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

SECTION ONE Purpose:

The purpose of this proposed Ordinance is to regulate 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.

SECTION TWO: Section 515-2 Zoning District of the Zoning Code is hereby amended by adding the following language.

<b>515-2-24</b>	<b>FLOODPLAIN OVERLAY (FP)</b>
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.
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.

## B. DEFINITIONS

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 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.
- 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.
- 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 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 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.
  - 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.

#### D. REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

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 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).

#### E. FLOODWAY DISTRICT

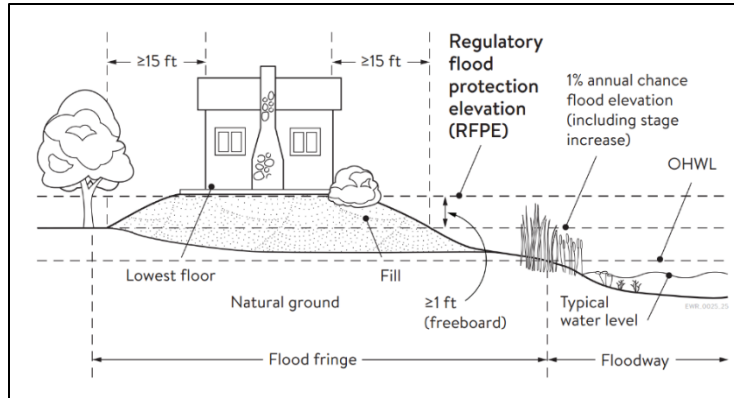
1. **Permitted Uses in Floodway.** Development allowed in the floodway district is limited to that which has low flood damage potential and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. No structures, as defined in 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.
  - 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.

## F. 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.
- 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**

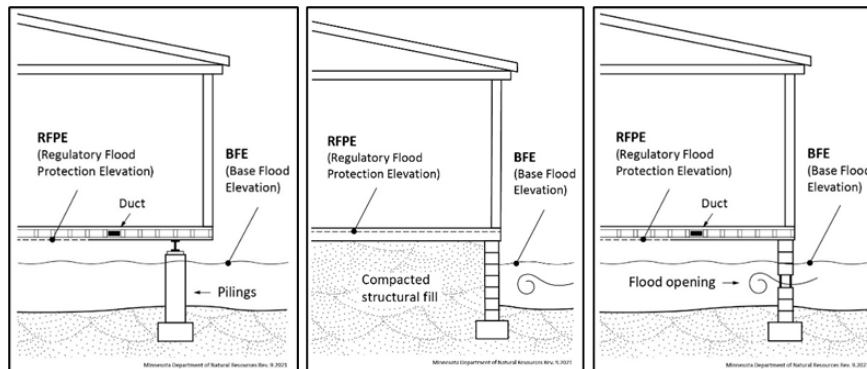


- b. Nonresidential Structures. Nonresidential structures must meet one of the following construction methods:
- i. Elevation on Fill. Structures may be elevated on fill, meeting the standards in Section F.2a.i of this ordinance. Fill for nonresidential structures is not required to be extended 15 feet 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 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 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.

## G. GENERAL FLOODPLAIN DISTRICT

### 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):
    - 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.

## H. 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 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.
- 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.

## L. 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 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.

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 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.

**N. 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.

**SECTION THREE:** 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 – \_\_\_\_\_

June 9, 2026

The Honorable Dave Badeaux  
Mayor, City of Brainerd  
City Hall  
501 Laurel Street  
Brainerd, MN 56401

Dear Mayor Badeaux:

**RE: CONDITIONAL STATE APPROVAL OF FLOODPLAIN ORDINANCE & REQUIRED NEXT STEPS**

On behalf of the Department of Natural Resources (DNR), I am writing to conditionally approve the City of Brainerd's draft floodplain management ordinance.

We received a draft of the City's revised floodplain ordinance from the Community Development Director, James Kramvik, on June 5, 2026. This ordinance amendment was initiated by the city in an effort to update the current floodplain management ordinance to be consistent with the DNR's current state model floodplain ordinance.

In accordance with Minnesota Statutes, Section 103F.121, we find that the City's draft floodplain management ordinance substantially complies with the state floodplain management rules (Minnesota Rules, parts 6120.5000 to 6120.6200) and, to the best of our knowledge, with the floodplain management standards of the Federal Emergency Management Agency (FEMA). It is hereby conditionally approved.

We will provide final approval of the City's draft floodplain management ordinance once the following has been submitted:

- ***one (1) copy each of the signed adopted ordinance addressing all comments noted above,***
- ***the affidavit of publication, and***
- ***the completed "Ordinance Processing Checklist" (attached).***

Please forward these documents via email to the DNR Floodplain Program email at [floodplain.dnr@state.mn.us](mailto:floodplain.dnr@state.mn.us), and copy the DNR's State NFIP Coordinator, Ceil Strauss at [ceil.strauss@state.mn.us](mailto:ceil.strauss@state.mn.us). Upon receipt and verification, we will send a final approval letter. Ms. Strauss will then transmit the ordinance and final approval letter to our contacts at FEMA's Chicago Regional Office. Be advised that any future amendments of this ordinance or change in the designation of flood prone areas require prior DNR approval. In addition, you are required to send copies of hearing notices and final decisions pertaining to variance, conditional uses, and ordinance amendments to this agency. Please email these notices to Ceil Strauss. Should you have any questions on this ordinance or related matters, please contact Ms. Strauss via email or at (651) 259-5713.

While our office in St. Paul will be the main contact for this floodplain ordinance update, your DNR Area Hydrologist will continue to be your main contact for day-to-day assistance with administering your floodplain

management ordinance and questions about other DNR water-related programs and permits. Your Area Hydrologist is Jacob Frie, who can be contacted at 218-203-4367 or [Jacob.Frie@state.mn.us](mailto:Jacob.Frie@state.mn.us).

The DNR greatly appreciates your community's cooperation and initiative in providing for the reduction of flood damages through the adoption and administration of this ordinance.

Sincerely,

Emily Javens, PE  
Land Use Unit Supervisor  
DNR Ecological & Water Resources

Attachments: Draft Ordinance  
Ordinance Processing Checklist  
Sample Ordinance Summary

c: James Kramvik, Community Development Director  
Darrell Schindler, DNR EWR Regional Manager  
Darrin Hoverson, DNR EWR District Manager  
Jacob Frie, DNR Area Hydrologist  
Ceil Strauss, DNR State Floodplain Manager/NFIP Coordinator

## NOTICE OF HEARING

Notice is hereby given that the City of Brainerd Planning Commission will be conducting a public hearing to consider adding Section 515-2-24 Floodplain Overlay District to the Brainerd Zoning Code. The purpose of this proposed Ordinance is to regulate 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.

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, June 17<sup>th</sup>, 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 3<sup>rd</sup> day of June, 2026



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James Kramvik  
Community Development Director

Publication Date: June 6<sup>th</sup>, 2026

**ORDINANCE  
NO. 16XX**

**AN ORDINANCE AMENDING SECTION 515-2 ZONING DISTRICTS OF THE ZONING CODE**

WHEREAS, a public hearing was held by the Planning Commission as required by the Zoning Code, on June 17th, 2026

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

SECTION ONE Purpose:

The purpose of this proposed Ordinance is to regulate 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.

SECTION TWO: Section 515-2 Zoning District of the Zoning Code is hereby amended by adding the following language.

<b>515-2-24</b>	<b>FLOODPLAIN OVERLAY (FP)</b>
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.
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.

**B. DEFINITIONS**

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 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.
- 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 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 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.

#### D. REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS

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 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.~~

#### E. 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.](#)
  - 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.

#### F. 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.
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.

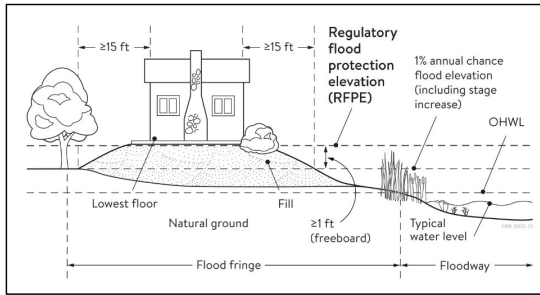
**Figure 1: Overview of fill standards for residential**

- 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.**

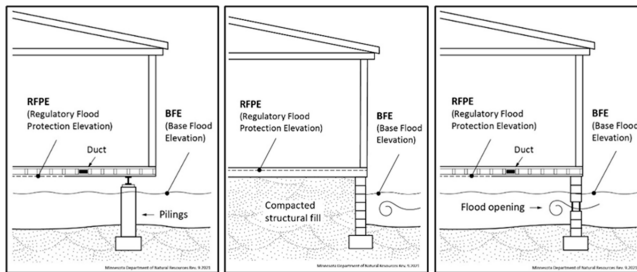
**Figure 3: Filled stem walls.**

**Figure 4: Internally flooded enclosed area.**



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

**G. GENERAL FLOODPLAIN DISTRICT**

**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):
    - 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.

**H. 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**

**Commented [RH1]:** Just noting a minor spelling correction.

- 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 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.
- 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.

**L. 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 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.

#### M. 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 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.

**N. 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.

**SECTION THREE:** 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:26**

**RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE 16XX**

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

**WHEREAS**, on July 20<sup>th</sup>, 2026, the City Council adopted Ordinance No. 16XX which amends Section 515-2 Zoning Districts of the Zoning Code.

**WHEREAS**, Ordinance No. 16XX is lengthy and would be expensive to publish in its entirety.

**NOW, THEREFORE, BE IT RESOLVED** that the Council finds that the following text clearly informs the public of the intent and effect of Ordinance No. 16XX and approves the following summary for publication:

SUMMARY PUBLICATION OF ORDINANCE 16XX FLOODPLAIN ORDINANCE

AN ORDINANCE AMENDING SECTION 515-2 ZONING DISTRICTS OF THE ZONING  
CODE.

The City of Brainerd City Council adopted a newly revised floodplain ordinance at the July 20<sup>th</sup> City Council meeting. The ordinance was based off the Minnesota DNR model floodplain ordinance, to satisfy the state and federal standards detailed in Minnesota Statutes, Chapter 103F; Minnesota Rules, parts 6120.5000 – 6120.6200; the rules and regulations of the National Flood Insurance Program in 44 CFR 59 to 78. The ordinance provides the general regulations for development in floodplains, as well as procedures guiding administrative responsibilities.

A copy of the ordinance in its entirety is available for inspection at Brainerd City Hall, 501 Laurel Street, Brainerd, MN 56401.

Adopted this \_\_ day of \_\_\_\_\_ 2026

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MIKE O'DAY  
President of the Council

Approved this \_\_ day of \_\_\_\_\_ 2026

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DAVE BADEAUX  
Mayor

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

# MEMO



**TO:** Planning Commission

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

**DATE:** June 17<sup>th</sup>, 2026

**RE:** Planning Commission Itinerary Update

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## INTRODUCTION

This itinerary is meant to provide an organization of topics and ordinances for the Planning Commission and the Community Development Department to review in the next year in order of importance.

## COMPLETED ORDINANCES

- 1) Cannabis Dispensaries
- 2) Garage Requirements for Residential Housing Units
- 3) Section 515-4-2 Building Design Standards
- 4) Mixed Use Development in the CC District
- 5) Crypto Mining/ Data Centers/ AI Centers
- 6) Allowed Use Table
- 7) Off Street Parking Requirements
- 8) Screening of Outdoor Sales
- 9) Fence Requirements for Corner Lots
- 10) Office Use in the GI District
- 11) Sign Standards

## CODE SECTIONS TO REVIEW

- 1) **Section 530 – Shoreland Management Regulations** – The City of Brainerd’s existing Shoreland Management Ordinance was last approved by the City and DNR on 7/25/2003. Current zoning districts do not match / align with the zoning districts identified in the City’s Shoreland Management Ordinance. Additionally, Section 525 of the City Code discusses Mississippi Headwaters Regulations where there are also zoning inconsistencies. The DNR is requesting that the City of Brainerd update its “Shoreland Management Ordinance” to ensure the zoning districts identified in the Zoning Map (2022) are identified in the Shoreland Management Ordinance within one year. **(In Progress – City Council Final Reading June 15<sup>th</sup>)**
- 2) **Comprehensive Plan Update** – The last update to the comprehensive plan was in 2019 and in 2021 the City Council approved a proposed Comprehensive Plan amendment to include

the revised Future Land Use Map. The process of updating the Comprehensive Plan was an extensive process undertaken by the City Staff, City Council, Planning Commission, the Steering Committee, and the Planning Team. The City should consider reviewing the comprehensive plan every five years to ensure all of the goals and objectives listed in the plan are still relevant for the City of Brainerd. City Council approved \$28,000 to update the comprehensive plan in 2025. **(In Progress – Planning Commission)**

- a. The Comprehensive Plan is a leading policy tool that provides a series of steps to help achieve a shared community vision. This plan will help citizens and local leaders work together more efficiently to guide future growth and development within the city. The plan represents a shared vision for the future and a strategic map to reach that vision. The plan provides broad recommendations to guide and manage growth and development. These broad recommendations come in the form of goals and policies that express the city's aspiration for the future.
- 3) **Floodplain District** - 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. This Section of the Zoning Code was inadvertently removed from the Zoning Code in the 2022 update. The City does not have significant development in the Floodplain District, but it does need to be in the City's Zoning Code, especially for administration of Conditional Use and Variance requests. The Code needs to be updated and must meet the minimum requirements of the State as this Section has not been updated for several years. Staff met with the regulatory authority regarding the Floodplain District and received direction on how to proceed. **(In Progress – Planning Commission Public Hearing June 17th)**
  - 4) **Mississippi Headwaters Regulations** – Staff met with a representative from the Mississippi Headwaters board regarding the potential annexation. The representative indicated that while not mapped as jurisdiction of the Mississippi Headwater's Board, this area along the Mississippi River in the proposed annexation area is subject to the regulations if annexed. The City currently has regulations governing development of properties subject to these regulations, but the regulations need to be updated as they were passed in 2001. Many of the setback regulations are consistent with the shoreland regulations. However, there are differences and the most restrictive regulations would apply to properties. The City must meet the minimum requirements of Mississippi Headwaters Board Comprehensive Management Plan. The Mississippi Headwaters Board does not need to approve potential annexation, but a moratorium is placed on subdivisions and permits until the City updates its regulations.
  - 5) **Solar Arrays** – Brainerd Public Utilities have installed solar arrays at the Brainerd Airport and behind the BPU wastewater facility in Baxter. BPU is interested in adding additional solar arrays and has been looking at property in the City of Limits of Brainerd. Staff consider individual solar panels as accessory structures for single family homes. However, a code change and an addition to the use table would be needed for the construction of a solar array in Brainerd.
  - 6) **Manufactured Home Overlay District: Section 515-2-20** - Manufactured Home Overlay District (MH-O) was partially reviewed and amended by Swanson Haskamp Consulting but will still need additional review by staff and the Planning Commission.

- 7) **Landscape Standards (Added)** – Staff recommends reviewing the landscaping and design standards as there have been a significant number of variances required for districts with zero lot line setbacks. A full review of the landscape standards should be performed with an emphasis on requirements in the MS, TC, CC, and TN-2 Districts.
- 8) **Design Standards (Moved Down in List)** – MS, TC, CC, GC Districts – The previous design standards ordinance adopted in January of 2025 primarily focused on residential façade standards. The EDA board recommended the City consider enhancing design standards along its major corridors and the downtown area.
- 9) **Lighting Regulations for Outdoor Signage** – City Council is currently considering an update to the sign regulations in the Zoning Code. Planning Commission recommended approval of the ordinance at the September 17<sup>th</sup> meeting. The changes in regulations primarily focus on design standards for outdoor signage. The Commission indicated interest in reviewing lighting intensity at a future meeting in a separate ordinance.
- 10) **Sound Requirements** – Currently, most regulations in the zoning code rely on MPCA standards for sound. CUP's have the ability to add barriers to mitigate affects to neighboring properties.