

CITY COUNCIL AGENDA

Brainerd, Minnesota

October 1, 2018

7:30 P.M.

Brainerd City Hall

Council Chambers

6:00 p.m. INFORMATIONAL SESSION

Joint informational session with the City Council, the Economic Development Authority (EDA) and the Brainerd Housing & Redevelopment Authority (HRA) to learn about TIF and Tax Abatement being presented by Stacie Kvilvang and Jason Aarsvold from Ehlers

1. **Call To Order - 7:30 PM**

2. **Roll Call**

___ J. Lambert ___ K. Stunek ___ K. Bevans ___ D. Badeaux

___ G. Johnson ___ S. Hilgart ___ D. Pritschet ___ Mayor Menk

3. **Pledge Of Allegiance**

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

5. **Consent Calendar**

NOTICE TO PUBLIC - all matters listed are considered routine by the Council and will all be enacted by one (1) motion. There will be no separate discussion of these items unless good cause is shown prior to the time the Council votes on the motion to be ADOPTED BY ROLL CALL

A. **Approval Of Minutes**

1. Regular Meeting Held on September 17, 2018

Documents:

20180917_CC draft.pdf

B. **Approval Of Licenses**

1. Contractor Licenses - 3 - New; 6 - Renewals

Documents:

2018-10-01 License RPT.pdf

C. Department Activity Reports

1. Fire Chief
2. Parks Director

Documents:

Fire Chief Report.pdf

Park Director Report.pdf

D. Minnesota Lawful Gambling Application To Conduct Excluded Bingo - Submitted By Lakes Area Bowling Association, 1301 11th Ave NE, Brainerd. Bingo Events To Be Held November 12-16, 2018 At Jack's House, 300 Hwy 25 S, Brainerd

6. Council Committee Reports

A. Personnel And Finance Committee

Documents:

20181001_PF.pdf

1. Approval Of Bills
2. Accounts Payable/Administrative Specialist Position Hiring

Documents:

AP Adm Specialist.pdf

3. Request To Authorize Posting Of Additional Building Inspector Position

Documents:

Request to Authorize Posting of Additional Building Inspector Position.pdf

4. Northtown Addition Land Donation

Documents:

Northtown playground Council agenda.pdf

5. Request For Proposal Discussion For 2019 Audit Services

Documents:

B. Safety And Public Works Committee

Documents:

20181001_SPW.pdf

1. Event/Street Closure Application - Brainerd Homecoming 5k, 10k, And Parade

Documents:

Event and Street Closure Application - Brainerd Homecoming.pdf

2. Event/Street Closure Application - Rising To Recovery Walk

Documents:

Event and Street Closure Application - Rising to Recovery Walk.pdf

3. Event/Street Closure Application - Saint Francis School Marathon

Documents:

Event and Street Closure Application - Saint Francis School Marathon.pdf

4. Event/Street Closure Application - Zion Lutheran Church Trunk-Or-Treat

Documents:

Event and Street Closure Application - Zion Lutheran Church Trunk-or-Treat.pdf

5. Section 425 - Rental Housing Maintenance Code And Conduct On Premises Ordinance Discussion

Documents:

Brainerd City Code Section 425 - Rental Housing Maintenance Discussion.pdf

7. Unfinished Business

- A. **Call For Applicants - Informational**
(Application Information at the City's Website
(<http://www.ci.brainerd.mn.us/>)

Mayor Recommended: (all terms expire on 12/31 of said year)
Charter Commission - 1 term (Expire 2021)
Library Board - 1 term (Expire 2021)

B. First Reading Of Proposed Ordinance No. 1483 - An Ordinance To Amend Section 1200 Intoxicating Liquor

Documents:

First Reading ORD 1483.pdf

8. New Business

A. PH And Res - Petition To Vacate A Portion Of William Street And NW 3rd Street - West Brainerd

Documents:

PH and Res - Petition to Vacate a Portion of NW 3rd Street and William Street - West Brainerd.pdf

1. Resident Email Regarding The Vacation

Documents:

Resident Email.pdf

B. Non-Commercial Speech Sign Discussion

Documents:

Non-Commercial Speech Sign Discussion.pdf

9. Public Forum

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

10. Staff Reports

(Verbal: Any Updates since Packet)

A. City Administrator's Report

Documents:

City Admn Report.pdf

11. Council Member Reports

12. Adjourn - To Closed Meeting Pursuant To Minnesota Statutes Section 13D.05, Subdivision 3(B) To Discuss Pending Franchise Fee Litigation With The City Of Baxter (City Of Baxter V. City Of Brainerd, Court File No. 18-CV-17-5263).

13. Adjourn - To Closed Session Pursuant To M.S. 13D.03 To Discuss Labor Negotiation Strategy

14. Adjourn To Facility Discussion Workshop

Note: Safety and Public Works Committee will meet at 6:45 P.M.
Personnel and Finance Committee will meet at 6:45 P.M.

ANY INDIVIDUAL NEEDING SPECIAL ACCOMMODATIONS,
PLEASE CALL 828-2307

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

MISSION

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

**Brainerd, MN
September 17, 2018**

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:32 P.M. by Council President Pritschet.

Upon roll call, the following members were noted as present: Lambert, Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet. Mayor Menk was also noted as present.

Council President Pritschet opened the meeting with the Pledge of Allegiance to the Flag.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO APPROVE THE AGENDA.

MOVED AND SECONDED BY ALDERMEN LAMBERT AND HILGART TO ADOPT THE CONSENT CALENDAR.

A. Approval of the Minutes of the Budget Workshop held on August 27, 2018, the Regular Meeting held on September 4, 2018 and the Budget Workshop held on September 10, 2018 - Approved

B. Approval of Licenses - Approved

Contractor Licenses – 2 – New; 3 – Renewals

C. Department Activity Reports - Approved

1. Police Chief
2. Finance Director

D. Minnesota Lawful Gambling Application for Exempt Permit – Submitted by Brainerd Amateur Hockey for an Event to be Held on February 23, 2019 at Roundhouse Brewery, 1551 Northern Pacific Rd., Brainerd - Approved

E. Tobacco License Application – Submitted by Lakes Vape & Rec Supply LLC, 718 Laurel St., Brainerd – Contingent Upon Background Check, Fire Inspection and Property Lease Agreement - Approved

Upon roll call, members Lambert, Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted “aye.” No member voted “nay.” The Chair declared the motion carried.

Community Spotlight

Brainerd Industrial Center (BIC)

The Chair recognized Mr. Mike Higgins, owner of the Brainerd Industrial Center (BIC) who stated it was four years ago this month when he came before the Council to announce the purchase of the paper mill. He gave an update of the activity taking place and the businesses that are leasing space in the building. The Volkswagens are being stored at the facility and maintained by staff. There are some vehicles being circulated out with others coming in. There have been rumors that they are sending cars to the scrapyard, which is a false statement. The facility is

housing them for their customer, which will probably continue for a couple more years. Several businesses are operating at the facility such as GreenForest Recycling, Barrett Pet Foods and Mann Lake Ltd. Currently, the Wal-Mart store is leasing space as a lay down area for the fixtures while they remodel the Baxter store. Mr. Higgins is looking forward to future opportunities in the City of Brainerd. The Council thanked him for the presentation.

Presentations

Miss Brainerd 2018 – Ms. Serena Schreifels

Ms. Schreifels was unable to present this evening and will be rescheduled for a later meeting.

School District Blueprint 181 Presentation

The Chair recognized Mr. Chris Ziemer, project director with ICS Consulting, who is one of two directors on the project. Also attending tonight are Natalie Hoff from ICS Consulting; Laine Larson and Marcie Lord from ISD 181; and Kevin Donnay and Erica Marcussen, architects with WSN. Mr. Ziemer presented an overview on the first two projects of Blueprint 181, which are Harrison Elementary and the Brainerd High School. **The requests for bids on the Harrison project will open late winter or early spring with a tentative completion in 2020. Brainerd High School will open for bids in late spring or early summer.** Mr. Ziemer gave a summary of the future facility projects and answered questions from the Council. The Council requested a comprehensive vision from the school district of their plans for reshaping our neighborhoods and communities, due to the upcoming property acquisitions and road vacations from the projects. The Council thanked him for the presentation.

Council Committee Reports

Personnel and Finance Committee Report

Approval of Bills & Payments to Contractors – Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK TO APPROVE THE PAYMENT OF BILLS AND PAYMENTS TO CONTRACTORS AS RECOMMENDED BY PERSONNEL AND FINANCE COMMITTEE CONTINGENT UPON APPROVAL FROM SAFETY AND PUBLIC WORKS COMMITTEE.

Upon roll call, members Lambert, Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted “aye.” No member voted “nay.” The Chair declared the motion carried.

League of MN Cities Insurance Trust (LMCIT) Premium Renewal '18-'19 - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE THE INSURANCE RENEWAL FROM THE LMCIT FOR JUNE 1, 2018 – FEBRUARY 28, 2019.

Committee Chair Johnson explained the options for renewal were a short term or long term renewal. It was decided to opt for the short term and renew again on March 1, 2019, which will then be an annual renewal term going forward. The premiums increased approximately 1%

this year. Additionally, there was the option to purchase excess liability coverage, which was declined.

2019 Health Insurance Renewal Rates - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO APPROVE THE 2019 HEALTH INSURANCE RATE RENEWAL AS SUBMITTED BY SOURCEWELL; FURTHER TO APPROVE OUR CURRENT HEALTHPARTNERS HEALTH PLAN OPTIONS FOR 2019 AS PRESENTED.

2018-2019 Wellness Program – Request Wellness Grant Funding From Sourcewell - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO APPROVE THE 2018-2019 WELLNESS PROGRAM AS PRESENTED AND RECOMMENDED BY THE WELLNESS COMMITTEE AND AUTHORIZE STAFF TO SUBMIT A \$6,000 WELLNESS PROGRAM FUNDS GRANT APPLICATION TO SOURCEWELL FOR OUR 2018-2019 WELLNESS PROGRAM AS REQUIRED BY THE COUNCIL NOTIFICATION OF INTENT TO SUBMIT GRANT APPLICATION POLICY.

Committee Chair Johnson stated this year's champion of the employee Wellness Program is Jason Stockinger and the winner of the additional vacation day is Jason Easton.

Department of Building Safety Delegation Agreement and New Position Discussion - Informational

Committee Chair Johnson indicated the safety delegation agreement was discussed at the recent budget workshops. The question was asked of how much money does the City receive due to the delegation agreement with the state. The City received \$29,000 in 2018; \$6,000 in 2017; and \$9,000 in 2016. Looking forward to the major investment of the school district projects, there is the potential of receiving hundreds of thousands of dollars in revenue over the next several years.

Transit Out of State Travel Request - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART, DULY CARRIED, TO ACCEPT STAFF'S RECOMMENDATION AND APPROVE THE OUT-OF-STATE TRAVEL REQUEST FOR TRANSIT DIRECTOR STONE TO ATTEND THE MINNESOTA AND WISCONSIN PUBLIC TRANSIT ASSOCIATION ANNUAL CONFERENCE IN LACROSSE WI OCTOBER 14 - 18, 2018.

Discussion of Audit Services for 2018 - Approved

MOVED AND SECONDED BY ALDERMEN JOHNSON AND STUNEK, DULY CARRIED, TO ACCEPT STAFF'S RECOMMENDATION AND RETAIN CLIFTONLARSONALLEN (CLA) FOR 2018 AUDIT SERVICES TO NEGOTIATE A 1% INCREASE AND REVIEW THE COST SHARING AGREEMENT WITH THE AIRPORT.

Committee Chair Johnson stated it was discussed at committee level if this should go out for bids next year. It was determined the topic will be discussed at the next meeting and will return to Council with a recommendation.

Safety and Public Works Committee Report

Event/Street Closure Application – Brainerd Fire Department Open House - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO ACCEPT STAFF'S RECOMMENDATION TO APPROVE THE EVENT APPLICATION WITH THE CONDITION THE APPLICANT ORGANIZE THE NEED FOR TRAFFIC CONTROL WITH THE STREET DEPARTMENT.

Event/Street Closure Application – Homeless Heroes 5K - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO ACCEPT STAFF'S RECOMMENDATION TO APPROVE THE EVENT APPLICATION WITH THE CONDITIONS THAT THE APPLICANT ORGANIZE TRAFFIC CONTROL NEEDS WITH THE ENGINEERING DEPARTMENT, THE NEED FOR POLICE PRESENCE AT BUSY ROAD CROSSING WITH POLICE STAFF AND APPROVAL FROM THE PARKS DEPARTMENT TO USE THE KIWANIS PARK FOR THE EVENT.

Improvement 17-13 – Brook Street and SE 10th Street Resurfacing and Storm Sewer Rehabilitation Project Pay Estimate #3 – Final - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO APPROVE THE FINAL PAY ESTIMATE FOR IMPROVEMENT 17-13 IN THE TOTAL CONTRACT AMOUNT OF \$631,902.

Improvement 18-01 – Street Department Salt/Sand Storage Facility – Pay Estimate #3 – Final - Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO APPROVE THE FINAL PAYMENTS FOR THE SALT/SAND BUILDING TO GREYSTONE CONSTRUCTION IN THE AMOUNT OF \$216,696 AND ANDERSON BROTHERS CONSTRUCTION IN THE AMOUNT OF \$23,232.

Improvement 18-11 – SE 10th Street Storm Manhole Rehabilitation Joint Project with Crow Wing County – Bid Approved

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO APPROVE THE QUOTE FROM VISU-SEWER AT A TOTAL CONTRACT COST OF \$23,326 WITH AN ESTIMATED CITY COST OF \$13,312 AND AN ESTIMATED COUNTY COST OF \$10,014 AND UPON CONCURRENCE OF APPROVAL FROM THE COUNTY.

Discussion on 812 Juniper Street Concerns – Approved

Committee Chair Bevans gave a summary based on the testimony received from the Police Chief, City Engineer, City Attorney and many citizens regarding the conduct taking place at the property. There was discussion about the City Code and the frequency of rental housing inspections. Although this property has been inspected more often, the code states rental housing inspections take place every three years. There have been several nuisance complaints and police calls occurring at the property. According to the current ordinance, several of these calls were not serious enough to recommend action. However, if two incidents are reported within a

year, a written management plan is initiated by the police department. The owner has cooperated and complied with the police department. The current rental housing ordinance is over ten years old and should be reviewed.

MOVED AND SECONDED BY ALDERMEN BEVANS AND LAMBERT, DULY CARRIED, TO REVIEW THE RENTAL HOUSING ORDINANCE STARTING AT THE SAFETY AND PUBLIC WORKS COMMITTEE MEETING IN TWO WEEKS.

Unfinished Business

Committee Recommendations – Recommended by Mayor Menk

MOVED AND SECONDED BY ALDERMEN LAMBERT AND HILGART, DULY CARRIED, TO APPOINT MR. MICHAEL LOWE TO THE CITIZEN'S WATER TOWER COMMITTEE.

Call for Applicants – Informational:
(Application Information at www.ci.brainerd.mn.us/boards/)

Mayor Recommended: (all terms expire on 12/31 of said year)
Charter Commission –1 term (Expire 2021)
Library Board – 1 term (Expire 2021)

City Code Section 1200 – Liquor Ordinance Discussion

City Administrator Torstenson indicated the City Attorney reviewed the draft verbiage with the changes that are being brought forth from the June 11, 2018 Special Council meeting. The draft states an establishment that obtains a Category 3 food license will be classified as a Division 2 license with the City. A Division 2 license does not count toward the state statutory limit of 12 on-sale liquor licenses, and subdivision 2A was drafted in this manner to encourage and foster economic development. The Council needs to determine the number of Division 1 on-sale licenses that may be issued by the City.

Member Johnson stated staff did a good job in drafting the ordinance revisions but disagrees with requiring all businesses with a Category 3 food license to be defined as a restaurant. He would also like to eliminate the requirement that the business must provide five off-street parking spaces.

Member Badeaux indicated if a current Division 1 establishment decides to try adding a restaurant and transitions to a Division 2 license and it does not prosper, they would not have the ability to return to a Division 1 license if the limit was met. This could hinder future economic development downtown.

City Administrator Torstenson summarized if the City allows current bars that hold an on-sale liquor license that are also restaurants to choose the division they want to be and they all choose Division 1, then the City is at the limit for on-sale licenses. This would leave no room for economic development and could create a challenge with some potential businesses that would like the ability to obtain a liquor license.

Council discussion took place.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND BEVANS TO SET THE LIMIT OF DIVISION 1 ON-SALE LICENSES ISSUED BY THE CITY TO TWELVE (12); TO REMOVE "ANY ON-SALE LICENSE ISSUED TO SAID RESTAURANT SHALL BE DESIGNATED A DIVISION 2 LICENSE AS DEFINED BELOW" FROM SECTION 1200.03 SUBDIVISION 2A AND SUBDIVISION 2 FROM SECTION 1200.23 THAT READS "OFF-STREET PARKING SHALL BE PROVIDED TO ACCOMMODATE NOT LESS THAN FIVE MOTOR VEHICLES CONTIGUOUS TO SAID PLACE OF BUSINESS OR, IF THIS IS NOT FEASIBLE, IN A NEARBY AREA, WHICH SHALL BE SUBJECT TO COUNCIL APPROVAL".

Members Stunek, Bevans, Johnson and Pritschet voted "aye". Members Lambert, Badeaux and Hilgart voted "nay". The Chair declared the motion carried.

New Business

Resolution Declaring Costs to be Assessed, Ordering Preparation of Proposed Assessment, and Ordering a Public Hearing on Proposed Assessment – Downtown Snow Removal, Downtown Special Services District and Nuisance Abatement – Adopted by Resolution No. 46:18

MOVED AND SECONDED BY ALDERMEN LAMBERT AND BEVANS TO ADOPT A RESOLUTION WHICH DECLARES COSTS TO BE ASSESSED, ORDER PREPARATION OF THE PROPOSED ASSESSMENT AND ORDER A PUBLIC HEARING TO BE HELD ON OCTOBER 15, 2018 AT 7:30 P.M. TO CONSIDER TESTIMONY FOR OR AGAINST THE PROPOSED ASSESSMENTS.

RESOLUTION NO. 46:18

Upon roll call, members Lambert, Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

Resolution Declaring Costs to be Assessed, Ordering Preparation of Proposed Assessment, and Ordering a Public Hearing on Proposed Assessment – Improvement 17-13 – Adopted by Resolution No. 47:18

MOVED AND SECONDED BY ALDERMEN JOHNSON AND LAMBERT TO ADOPT A RESOLUTION WHICH DECLARES COSTS TO BE ASSESSED, ORDER PREPARATION OF THE PROPOSED ASSESSMENT AND ORDER A PUBLIC HEARING TO BE HELD ON OCTOBER 15, 2018 AT 7:30 P.M. TO CONSIDER TESTIMONY FOR OR AGAINST THE PROPOSED ASSESSMENTS.

RESOLUTION NO. 47:18

Upon roll call, members Lambert, Stunek, Bevans, Badeaux, Johnson, Hilgart and Pritschet voted "aye." No member voted "nay." The Chair declared the motion carried.

2019 Preliminary Levy – Adopted by Resolution 48:18

City Administrator Torstenson and Finance Director Hillman explained some of the options discussed at the budget workshops, the overall expenditures and the debt service of the City. The preliminary tax capacity information will be available in early November.

Council discussion took place.

MOVED AND SECONDED BY ALDERMEN JOHNSON AND HILGART TO ADOPT A RESOLUTION SETTING THE PRELIMINARY LEVY FOR TAXES PAYABLE IN 2019 TO \$5,717,592 FOR THE CITY PLUS \$126,888 FOR THE HRA.

Upon roll call, members Johnson and Hilgart voted "aye". Members Lambert, Stunek, Bevans, Badeaux, and Pritschet voted "nay." The Chair declared the motion failed.

MOVED AND SECONDED BY ALDERMEN BEVANS AND STUNEK TO ADOPT A RESOLUTION SETTING THE PRELIMINARY LEVY FOR TAXES PAYABLE IN 2019 TO \$5,895,572 FOR THE CITY PLUS \$126,888 FOR THE HRA.

RESOLUTION NO. 48:18

Upon roll call, members Lambert, Stunek, Bevans, Badeaux, and Pritschet voted "aye." Members Johnson and Hilgart voted "nay." The Chair declared the motion carried.

MOVED AND SECONDED BY ALDERMEN BEVANS AND BADEAUX, DULY CARRIED, TO SET THE DATE AND TIME FOR THE PUBLIC HEARING AS DECEMBER 10, 2018 AT 6:00 PM.

Public Forum

The Chair opened the Public Forum at 9:37 p.m.

No one came forward.

The Chair closed the Public Forum at 9:37 p.m.

Staff Reports

City Engineer Sandy announced the utilities are nearly completed on S. 6th Street with curb and gutter being installed at the end of the week. Anderson Brothers Construction will be paving the next section between Quince Street and Norwood Street. The tentative completion date is October 15, 2018 with a ribbon cutting event being scheduled by MnDOT. He stated the crews have started to fill the salt and sand shed with material for the upcoming winter season.

City Attorney Langel stated staff is in the process of obtaining quotes for the demolition of the motel on 6th Street.

City Administrator Torstenson indicated the past six weeks she has been busy with the budget as well as the liquor license ordinance. She has also been working towards economic development in the community. She also announced the Farmers Market will be ending on Tuesday, September 25th and the hours have changed slightly with a closing time of 6:00 pm.

Mayor Menk stated he wants to remind people not to drive down streets that are marked with road closed signs. It is for the safety of the workers and tickets will be issued. He announced the downtown mall building is near competition.

Council Member Reports

Council member Johnson complimented Police Chief McQuiston for the work him and his staff has done regarding 812 Juniper Street. He stated he attended a meeting with City Administrator Torstenson, City Engineer Sandy and Crow Wing County personnel to discuss the possibility of joining maintenance services **which are continuing.**

Council member Bevans announced the marriage of his daughter.

Break

9:42 P.M. – The Council took a short break prior to adjourning into closed session.

Adjourn – To Closed Session Pursuant to MN Statutes, 13D.05, Subd. 3(D) for Security at City Hall and Emergency Response Procedures – 9:49 p.m.

The Chair reconvened into open session at 10:17 p.m.

Adjourn

The Chair adjourned the meeting at 10:17 p.m.

Cassandra Torstenson
City Administrator

CITY OF BRAINERD
LICENSED CONTRACTORS
CITY COUNCIL MEETING
OCTOBER 1, 2018
(3 New, 6 Renewals)

CONTRACTOR	TELEPHONE	TYPE	INSURANCE	BOND	STATE NO.
LEROY SIGNS, INC. 6325 WELCOME AVENUE N. BROOKLYN PARK, MN 55429 18-0218	(763) 535-0080	SIGN	12/1/2018	8/1/2020	SB687653
MN QUALITY ENTERPRISES LLC 10718 GREENWOOD STREET BRAINERD, MN 56401 18-0219	(218) 829-4664	CROO	5/19/2019	12/31/2018	
RUSCO WINDOW COMPANY, INC. 411 40TH STREET S FARGO, ND 58103 18-0220	(701) 281-1848	GENC	4/1/2019	12/31/2018	BC602293
PHOENIX FABRICATORS & ERECTORS LLC 182 SOUTH CO RD 900 EAST AVON, IN 46123 18-0221 (New)	(270) 318-1215	GENL	1/1/2019	12/31/2018	
S.E.W. ENTERPRISES, INC. 5621 HWY 12 NE WILLMAR, MN 56201 18-0222	(320) 382-6268	SIGN	5/28/2019	12/31/2018	SB745645
QUALITY MASONRY 17037 GREGORY WAY BRAINERD, MN 56401 18-0223	(218) 330-6375	MASO	9/13/2019	12/31/2018	
JAMES KLINK CONSTRUCTION 11460 COUNTY ROAD 144 BRAINERD, MN 56401 18-0224	(218) 251-1475	GENL	6/12/2019	12/18/2018	BC637771
SCHILLING MECHANICAL LLC 1687 KOERING ROAD FORT RIPLEY, MN 56449 18-0225 (New)	(320) 360-2030	MECH	9/2/2019	9/9/2020	MB746676
BEAR CREEK BUILDERS LLC 8226 GULLWOOD ROAD LAKESHORE, MN 56468 18-0226 (New)	(612) 810-9919	GENC	9/21/2019	12/31/2018	

Brainerd Fire Department

To: Mayor and City Council
From: Tim Holmes, Brainerd Fire Chief
Date: September 27, 2018
Re: September 2018 Activity Report

September has been a busy month with firefighters presenting fire safety education to 445 children in our schools and daycares. We also participated in a senior safety event at the YMCA and provided fire extinguisher education to 75 Costco employees

Our five new firefighters all started firefighting training and should complete the first part of this specialized training by the end of November. Firefighter training in September included commercial building fire response, pump operations, drafting, rope rescue at Camp Ripley, and a large-scale Brainerd Lakes Regional Airport emergency response drill.



September inspections included fuel tank installations, new construction projects, license inspections and Fed-Ex pre-planning.

Annual aerial testing was completed on both aerial ladder trucks in September.



We ended the month with another great "BFD Family Fun Night", where we enjoyed dinner with our families and had a family scavenger hunt.

Our annual Fire Department Open House is Thursday, October 4 from 5 to 7 pm. All are welcome to attend and participate in hands-on activities for children and adults, tour the fire station, meet the firefighters and other community emergency service providers, register for door prizes and have refreshments. This year's fire theme is "Look. Listen. Learn. Be aware. Fire can happen anywhere".



Brainerd Fire Coverage Area Incident Report (Includes City of Brainerd)

Vehicle/Recreational Vehicle Fire	1
Motor Vehicle Crash with Injuries	2
Gas Leak/Spill	1
Assist Other Governmental Agency	3
Good Intent Call	2
Canceled Enroute	9
Smoke Scare	2
Alarm System Activation	13
Carbon Monoxide Alarm Activation	1
Total	34

City of Brainerd Incident Report

Vehicle/Recreational Vehicle Fire	1
Motor Vehicle Crash with Injuries	1
Gas Leak/Spill	1
Assist Other Governmental Agency	3
Good Intent Call	1
Canceled Enroute	6
Smoke Scare	1
Alarm System Activation	8
Total	22

Parks and Recreation Report

October 2018

Submitted by Tony Sailer, Director

Staff cut out sod in a five-foot arc on softball Field 1 to extend the infield to accommodate the new base distance and remove the hump between the infield and outfield. Black dirt was brought in to level areas of the outfield. Funds from the adult softball banner program were used.

Staff requested Brainerd Public Utilities crews to repair a number of electrical issues in the parks, including: exposed conductors on the Bane Park hockey rink light pole; replace the transformer pad at Buffalo Hills-Lions Park; exposed conductors on the pole mounted light in Gregory Park; exposed conductors to the pole mounted light, light pole covers, and replace burned out security lights at Jaycees Park; and replace conduit at the base of the light pole at Mill Avenue Park.



Staff acquired two cement culverts and painted them, and built a teeter-totter, for dogs to play in/on at Buster Park. Staff also repainted the decorative fire hydrants and added wood chips to the dog park.



- The 12th annual Great Pumpkin Festival will take place from 1-4 p.m. on Saturday, Oct. 13, at Gregory Park.
- Staff worked with the Street Department to remove about 20 dead trees in Gregory, Bane and Jaycees parks. A few more trees are scheduled for removal in Bane Park.
- The Bernese Mountain Dog Club of America will be hosting its National Specialty at Cragun's Resort and Conference Center in early May 2019. There will be many BMDs in attendance and the group has indicated its interest in using Buster Park during their stay. Because there is no fee to use Buster Park, the group indicated it may donate for improvements at the facility.
- The Minnesota Recreation and Parks Association state conference will take place in Rochester from Oct. 9-12. The Park Director and Recreation Specialist will attend.

**CITY OF BRAINERD
PERSONNEL AND FINANCE COMMITTEE
AGENDA**

October 1, 2018
City Hall Conference Room
6:45 PM

1. Approval of Bills
2. Accounts Payable/Administrative Specialist Position Hiring
3. Request to Authorize Posting of Additional Building Inspector Position
4. Northtown Addition Land Donation
5. Request for Proposal Discussion for 2019 Audit Services



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



MEMO

TO: Personnel and Finance Committee

FROM: City Engineer Sandy

DATE: September 27, 2018

SUBJECT: Authorization to Hire Building Inspector Position Proposed in 2019 Budget

There have been discussions at previous budget workshops and council meetings to hire an additional building inspector in the department of building safety by including the additional position in the 2019 budget. Staff is also proposing, with the council's consent, to hire and fill the position in December 2018. To clarify, this hiring would take place before the 2019 budget is adopted in December of 2018.

The purpose of this proposed extra position is to provide support to the department during these times of excessive workload due to the school district referendum, potentials for large economic development projects, and to help assist with the increased housing starts in Brainerd Oaks, Northtown, and other developments throughout the City. The committee has also received information regarding the City's delegation agreement with the State of Minnesota regarding extra revenues that the City could retain through the delegation agreement, depending upon the State's level of trust and comfort with department staffing, training levels, and experience in plan reviews, inspections, and documentation for state licensed facilities. With extra staffing within the department, when the State reviews the department capacities before the school district projects commence, it will put the City in a better position to retain the delegation agreement for the school district projects.

It is anticipated that the department of building safety will experience 3 retirements in the next 1-5 years. The inclusion of another building inspector (preferably with Building Official licensure) will help in succession planning for the department. It is anticipated that, through attrition, the department would revert back to 4 people, with a building official, building inspector, housing inspector, and administrative assistant.

With the continued growth being experienced in the City, increased revenues have also been realized through the building department, including increased permit fees in excess \$30,000 of budgeted figures as of August 31, 2018. On the current pace, staff has estimated that increase in revenue may be more than \$60,000 - \$70,000 for year 2018 in building permits alone. This number is only planned to increase in the coming years with the school district referendum, the increased number of housing starts, and other economic development opportunities.

The proposed budget for the position in 2019 is \$82,450. If the position is authorized to be filled in mid-December 2018 at 85% of the base wage, the unbudgeted expense would be about \$2,374. Not only will the additional building permit revenue cover the cost, but there has been personnel cost savings in other departments that would also cover the unbudgeted cost for 2018.

It is important to note that in 2016, which was the last time we tried hiring a building inspector the City was unable to fill the building inspector position. Instead, the position was changed to a housing inspector with reduced minimum qualifications so that more qualified applicants could apply for the position. The market for building inspectors has been difficult to hire for in the past, but at this time, staff is proposing to post internally, as outlined in the employee policy manual.

Staff has attached the Building Inspector Job Description to this request and will be available to answer any questions the committee or council may have at the meeting.



Building Inspector

Department: Engineering/Building Safety

FLSA Status: Non-Exempt

General Definition of Work

Performs skilled plan review and inspection work to ensure compliance with Minnesota State building codes, locally adopted ordinances, the Brainerd City Code, and related work as apparent or assigned. The scope of work includes residential, commercial, industrial facilities and other structures. Work is performed under the limited supervision of the Building Official.

Qualification Requirements

To perform this job successfully, an individual must be able to perform each essential function satisfactorily. The requirements listed below are representative of the knowledge, skills, and/or abilities required. The omission of specific statements of duties does not exclude employee from the position if the work is similar, related, or a logical assignment to the position. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Essential Functions

- Conducts plan reviews and building inspections including mechanical, plumbing, and/or combination inspections for code compliance of new and existing structures and properties.
- Issues building permits; calculates building permit fees and state surcharges.
- Inspects all phases of public and private construction to ensure the construction and improvements are in compliance with the plans, specifications, codes and local regulations; issues correction notices or approvals as required.
- Maintains records of inspection activities and permits issued.
- Assists and advises contractors, property owners, and others regarding pertinent codes and regulations; consults with supervisor on procedures to be followed in cases that are not clearly covered in the codes.
- Answers inquiries from contractors and residents concerning work in progress or subject to bid and questions related to codes and regulations.
- Responds to complaints reported to the Department, assists in the prosecution of violators of regulations.
- Investigates complaints and make routine inspections to determine compliance with Zoning Code and other applicable laws and ordinances; and assists in the prosecution of violators of regulations.
- Issues written orders for correction of violations with a date for completion.
- Issue citations for non-compliance, gather evidence of violation and provide charging information for the City Prosecuting Attorney.
- Appear in court as necessary.
- Maintains complete accurate records of work performed; completes related reports.
- Performs other duties when assigned or when necessary.

Knowledge, Skills and Abilities

- Considerable knowledge of all types of building construction materials and methods, and stages of construction when possible violations and defects may be most easily observed and corrected.
- Considerable knowledge of building, plumbing, and mechanical codes and related regulations.
- Considerable skill in reading and interpreting construction drawing, plans, and specifications.
- Working ability to perform required mathematical computations.

Building Inspector

Page 2

Knowledge, Skills and Abilities (Cont.)

- Considerable ability to prepare, organize and maintain inspection field and office data, reports and systems.
- Working ability to effectively communicate complex technical information, orally and in writing, to permit applicants, property owners, and other government agency representatives.
- Considerable ability to establish and maintain effective working relationships with permit applicants, property owners, tenants, the general public, elected officials, coworkers, and supervisors.
- Considerable ability to move about on construction sites.
- Considerable ability to read reports, correspondence, computer screens, and other documents.
- Working knowledge of the Zoning Ordinance and other related ordinances.
- Good negotiation, problem solving and communication skills.
- Ability to enforce codes and regulations firmly, tactfully and impartially in a courteous and non-judgmental manner.
- Working knowledge of computer operations, software and applications used in the assigned department.
- Ability to establish effective relationships with persons of diverse cultural and ethnic backgrounds.
- Able to work with minimal supervision.
- Able to work flexible hours including overtime.

Education, Experience & Special Requirements

Minimum Qualifications:

1. High School Diploma or general education degree (GED);
2. Valid Driver's License;
3. Two (2) years of education and/or experience in a skilled construction trade, construction design, construction supervision, or building and/or housing inspection;
4. MN Building Official-Limited Certification or the ability to obtain within eighteen (18) months of hire; and
5. Minnesota Special Class Boilers License or ability to obtain within two (2) years of hire.

Desired Qualifications:

- Certified by the International Code Council (ICC) as a building inspector and/or plans examiner.
- Possess MN Building Official Certification.
- Municipal inspection or plans examiner experience.
- Post-secondary education in building technology and/or construction related field.
- Bachelor's Degree in Engineering, Architecture, Construction Management or related field.

Physical Requirements

This work requires the regular exertion of up to 25 pounds of force and occasional exertion of up to 50 pounds of force; work frequently speaking or hearing, using hands to finger, handle or feel and reaching with hands and arms and occasionally requires standing, walking, sitting, climbing or balancing, stooping, kneeling, crouching or crawling, tasting or smelling, pushing or pulling, lifting and repetitive motions; work requires close vision, distance vision, ability to adjust focus, depth perception, color perception and peripheral vision; vocal communication is required for expressing or exchanging ideas by means of the spoken word and conveying detailed or important instructions to others accurately, loudly or quickly; hearing is required to perceive information at normal spoken word levels and to receive detailed information through oral communications and/or to make fine distinctions in sound; work requires preparing and analyzing written or computer data, visual inspection involving small defects and/or small parts, using of measuring devices, operating machines, operating motor vehicles or equipment and observing general surroundings and activities; work occasionally requires wet, humid conditions (non-weather), working near moving mechanical parts, working in high, precarious places, exposure to fumes or airborne particles, exposure to outdoor weather conditions and exposure to the risk of electrical shock; work is generally in a moderately noisy location (e.g. business office, light traffic).

This job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer, as the needs of the employer and requirements of the job change.

Last Revised: January 1, 2018

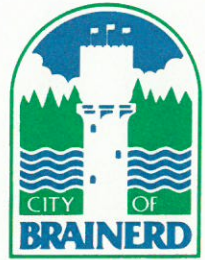
Memo

To: City Administrator Cassandra Torstenson and City Engineer Paul Sandy

From: Tim Caughey, Building Official *T.C.*

Date: September 10, 2018

Re: Projected Revenue for Permit Services



www.ci.brainerd.mn.us

After several discussions with school district architects, the following reflects the condensed numbers of projected revenues for these projects (school district only). We have included the past three years for comparison:

Past – All State Licensed Facilities

<u>2016</u>	<u>Valuation</u>	<u>Revenue</u>
Two Projects	\$972,513	\$9,087
<u>2017</u>		
Five Projects	\$409,096	\$6,847
<u>2018</u>		
Five Projects	\$2,126,000	\$29,518

Proposed – School District Facilities Only

PHASE I:

<u>2019</u>		
BHS North Campus	\$66,000,000	\$310,000
Harrison School	\$14,250,000	\$67,000

PHASE II:

<u>2020</u>		
Lowell School	\$10,000,000	\$49,000
Riverside School	\$10,000,000	\$49,000
Garfield School	\$8,500,000	\$42,000

PHASE III

<u>2021</u>	
Brainerd Learning Center	TBD
Washington Admin Offices	TBD
South Campus	TBD

I will be available at both September 17 meetings, Personnel & Finance and City Council, to address questions or concerns the mayor and council members may have regarding staff levels to maintain our delegation agreement with the Department of Labor & Industry.



MEMO

TO: Personnel and Finance Committee

FROM: City Engineer Sandy

DATE: September 11, 2018

SUBJECT: Department of Building Safety Information Regarding Current and Future Status of the Delegation Agreement with the State of Minnesota

At previous budget workshops, staff have proposed adding another position to the Department of Building Safety because of increased workload due to potential economic development opportunities in the City along with the approved school district referendum with construction beginning on 2019. There were questions raised by the council in regard to what a delegation agreement with the State of Minnesota entails and what holding this delegation agreement means to the City of Brainerd. In this memo, staff would like to outline the process that takes place when the City receives a plan for a state licensed facility (i.e. schools, hospitals, nursing homes), the different types of delegation agreements, and the supporting information on why staff feels an extra staff member, as proposed in the 2019 budget, would be in the best interest of the City for the future because of potential retirements and to help the State of Minnesota feel comfortable maintaining our delegation agreement on future state projects. I have also attached a memo from Building Official Caughey with previous revenues collected because of the City's delegation agreement with the State of Minnesota in 2016, 2017, and 2018 along with the potential revenues to be collected due to the school district referendum and proposed projects.

Overview

A municipal delegation agreement is a written agreement to transfer responsibility between the Department of Labor and Industry and the City. It identifies who is authorized to administer all or portions of the Minnesota State Building Code (MSBC) on state building projects. It is important to note that the City has elected to enforce the MSCB through Section 400 of the City Code, and thus would be responsible to enforce the code for all other non-state licensed projects in the City. The MSBC is the minimum construction standard throughout the whole state of Minnesota. Although it is not enforceable by municipalities unless it is adopted by local ordinance (in which case, the City has chosen to enforce it), it creates a level playing field for the construction industry by establishing a standard for construction of all buildings in the state. By choosing to enforce the code, the City has employed staff members to oversee permits, inspections, and issuance of certificate of occupancy to ensure that life, health, and safety of the public has been taken into consideration during construction of all building projects.

Municipal Delegation Agreement

As stated above, a delegation agreement is an agreement between the State and the City to transfer some or all the responsibility to enforce the MSBC on state licensed facility. In previous years, the City has held the delegation agreement in which the state performs plan review of state licensed facilities and collects 75% of the City's plan review fees to perform the state plan review. The City, in its current delegation agreement, has collected 25% of the plan review fees for state licensed facility projects to perform a cursory review of the facility to familiarize the inspector with the project, has collected 100% of the permit fees to perform all inspections and necessary documentation in accordance with the MSBC and state approved plans, and issues the certificate of occupancy. Other delegation agreements issued by the State of Minnesota include both plan review and inspection agreements, in which the municipality would collect all permit fees and plan review fees for the state licensed project and be responsible for all plan review and inspections. In these special circumstances, the municipality issued this type of agreement typically has a full technical staff available include master plumbers, HVAC technicians, and master electricians to cover the full plan review and inspections through the entire process. These delegation agreements are rare and are only authorized to municipalities that have the staffing and technical capacity to perform all these functions. The last option for a municipality is not to have an authorized delegation agreement for state licensed facilities, in which the state would perform all aspects of the building code and collect all permit and plan review fees for these state-licensed facilities. It is important to note that the City would still be responsible to perform all MSBC permits, plan review and inspections for non-state licensed facilities in the City and would likely still need full staffing as it currently has.

Qualifications and Experience Required to be Considered for a Delegation Agreement

According to the Department of Labor and Industry, a city must show it has certain technical capabilities on its staff to be considered for a delegation agreement. They include:

A. Minimum five years of experience in performing inspections or plan review and inspections to assure compliance with the Minnesota State Building Code on schools, hospitals, nursing homes, colleges, dormitories, correctional facilities **or** other buildings having elements in the following component categories, for example:

- **Structural:** cast-in-place reinforced concrete [composite] floors, walls and structural members, structural masonry, structural steel and connections, precast concrete, pilings (**all** with evidence of completed Special Inspection)
- **Fire-resistance:** walls, floors, structural members, penetrations, spray-applied fire-proofing, shafts, smoke barriers, smoke compartments, smoke and fire dampers
- **Egress:** exit enclosures, horizontal exits, elevator lobbies, exit passageways, areas of refuge, alternate locking devices
- **Mechanical:** type 1 hoods, hazardous-exhaust systems, process piping, ventilation systems with make-up-air
- **Fire protection:** alarm systems, alternate fire-protection-system designs, smoke control systems
- **Miscellaneous:** hazardous materials storage or control rooms, atriums, auditoriums, stages, grandstand-type bleacher seating structures, pedestrian walkways, emergency power systems

Relevant certifications or training courses could equate to one year of experience. Relevant certifications or training courses ideally should have been completed within the past five years.

B. Performed inspection or plan review and inspection of at least five buildings in the past five years that meet the criteria in "A."

C. Minimum five years of experience in performing inspections or plan review and inspections of fire protection system installations to determine compliance with the Minnesota State Building Code, Minnesota State Fire Code, and National Fire Protection Association (NFPA) standards.

New Building Inspector Position

In order for the City to put itself in the best position to maintain its current delegation agreement with the State of Minnesota, planning for potential retirements in the next 1-5 years, and handle the increased work load from housing starts, potential new economic development opportunities, and the school district referendum construction projects, City staff has proposed to add a new building inspector to the 2019 budget. Staff proposes to reduce back to current staffing levels through attrition in the department, and hopefully after a flurry of activity that is expected in the next 1-4 years. The new position would be trained under the current Building Official so that it gives the City the potential to maintain its delegation authority with the state and have someone in the wings of the current Building Official to potentially fill that void upon retirements. Staff feels it is in the best interest of the City to try and maintain its current delegation authority with the State of Minnesota and training a new building inspector under the current Building Official puts the City in the best opportunity to do so.

Other Opportunities for Funding through Department of Labor and Industry

Staff is currently researching a potential program offered through the Department of Labor and Industry to provide for an apprenticeship program in which would help to train future Building Officials and pay a portion of the costs to do so. While the program is in its infancy, the Building Official has ensured that he will keep checking in with the State, as they have indicated that the City would be an ideal candidate for the program.

Conclusion

While I will be attending the Safety and Public Works Committee meeting at this time, I have asked the Building Official to attend this meeting to answer any questions that the committee may have with the information that myself and the Building Official have provided in our respective memos.

If the committee would like other information on delegation agreements or the MSBC in general, the website is below:

<https://www.dli.mn.gov/workers/building-officials/municipal-delegation-agreements>



Brainerd City Council Agenda Request

Requested Meeting Date: October 1, 2018

Title of Item: Northtown Addition land donation

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☒ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☒ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: Tony Sailer	Department: Parks and Recreation
Presenter (Name & Title): Tony Sailer, Parks and Recreation Director	Estimated Time Needed: 5 minutes
Summary of Issue: Northtown Addition developer Tom Dehn wishes to donate two adjoining parcels of land for the development of a city park. The two lots are adjacent to an outlet which is owned by the City and is equivalent to four neighborhood lots. In the 2019 budget, staff has requested \$15,000 in CIP funds, along with using \$15,000 in Park Dedication funds, for the purchase and installation of playground equipment in the Northtown Addition. Staff has requested a conceptual playground design from St. Croix Recreation.	
Alternatives, Options, Effects on Others/Comments: 1. Accept the land donation with the intent to provide funding for a playground to be built in 2019. Staff would work with the City Attorney to properly dedicate the two lots for park purposes. 2. Reject the offer.	
Recommended Action/Motion: Staff recommends accepting the land donation with the purpose of developing a city park in 2019.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ <u>See below</u> <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i> If the land donation is accepted, staff would work with the City Attorney to properly dedicate the two lots for park purposes. Staff has requested \$15,000 in CIP funds, along with \$15,000 in Park Dedication funds to install playground equipment in 2019.	



Thomas Allen Homes LLC
17821 State Hwy 371
Brainerd, MN 56401

9/20/2018

Tony Sailer
Director Brainerd Parks and Recreation
1619 NE Washington Street
Brainerd, MN 56401

Dear Tony:

Please accept this letter as our intent to donate two lots in The Meadows and Spruce Reserve neighborhoods (Northtown Addition to Brainerd). The purpose of this donation is for the development of a Brainerd city park. The two lots are adjacent to an outlet which is currently owned by the city and is equivalent to 4 neighborhood lots. This total area of approximately 6 lots will be used for a combination of its current use within your Storm Water Run-Off plan, neighborhood green space, and a simple park setting for playground activity and sitting benches.

The Lots and Area are described on following attachments:

- *Updated Lot Availability for The Meadows and Spruce Reserve neighborhoods*
- *Parcel report for 2 lots from Crown Wing County*
- *Parcel image w/approx. park area drawn in*

This outlined intent includes the assumption that we will receive from the City Attorney guidelines and recommended steps to properly dedicate these lots for park purposes. If these two lots are not appraised at an acceptable value or the park is not built in 2019 (full build w/equipment), this offer is off the table and the lots will not be donated.

We are excited to finally get this combination use area underway as we have not only approached the area with newly build homes but are now beginning to surround the area with new starts and planned builds.

Sincerely,

Tom Dehn, President
Thomas Allen Homes LLC



General Information

Parcel Number: 092720070070009

General Information

Township/City: CITY OF BRAINERD
Taxpayer: 3 DEHNS LLC
17821 HIGHWAY 371
BRAINERD, MN 56401
Property Address: 9140 VIKING ST
BRAINERD, MN 56401
Township: 134
Range: 28
Section: 33
Plat: NORTHTOWN
Lake Number: 0
Lake Name:
Acres: 0.24
School District: 181
Legal Description:
LOT 7 BLOCK 7

2018 Assessment for 2019 Tax Payable

Class Code 1: Unimproved Residential Land
Class Code 2: N/A
Class Code 3: N/A
Homestead: Non Homestead

Estimated Land Value:	\$9,800.00
Estimated Building Value:	\$0.00
Estimated Total Value:	<u>\$9,800.00</u>

2018 Tax Payable

Net Tax (Specials Not Included):	\$180.00
Total Special Assessments:	\$0.00
Current Year Balance Due:	\$90.00
Delinquent:	NO



General Information

Parcel Number: 092720070060009

General Information

Township/City: CITY OF BRAINERD
Taxpayer: 3 DEHNS LLC
17821 HIGHWAY 371
BRAINERD, MN 56401
Property Address: 9141 WOLVES ST
BRAINERD, MN 56401
Township: 134
Range: 28
Section: 33
Plat: NORTHTOWN
Lake Number: 0
Lake Name:
Acres: 0.24
School District: 181
Legal Description:
LOT 6 BLOCK 7

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Estimated Total Value:	<u>\$9,800.00</u>

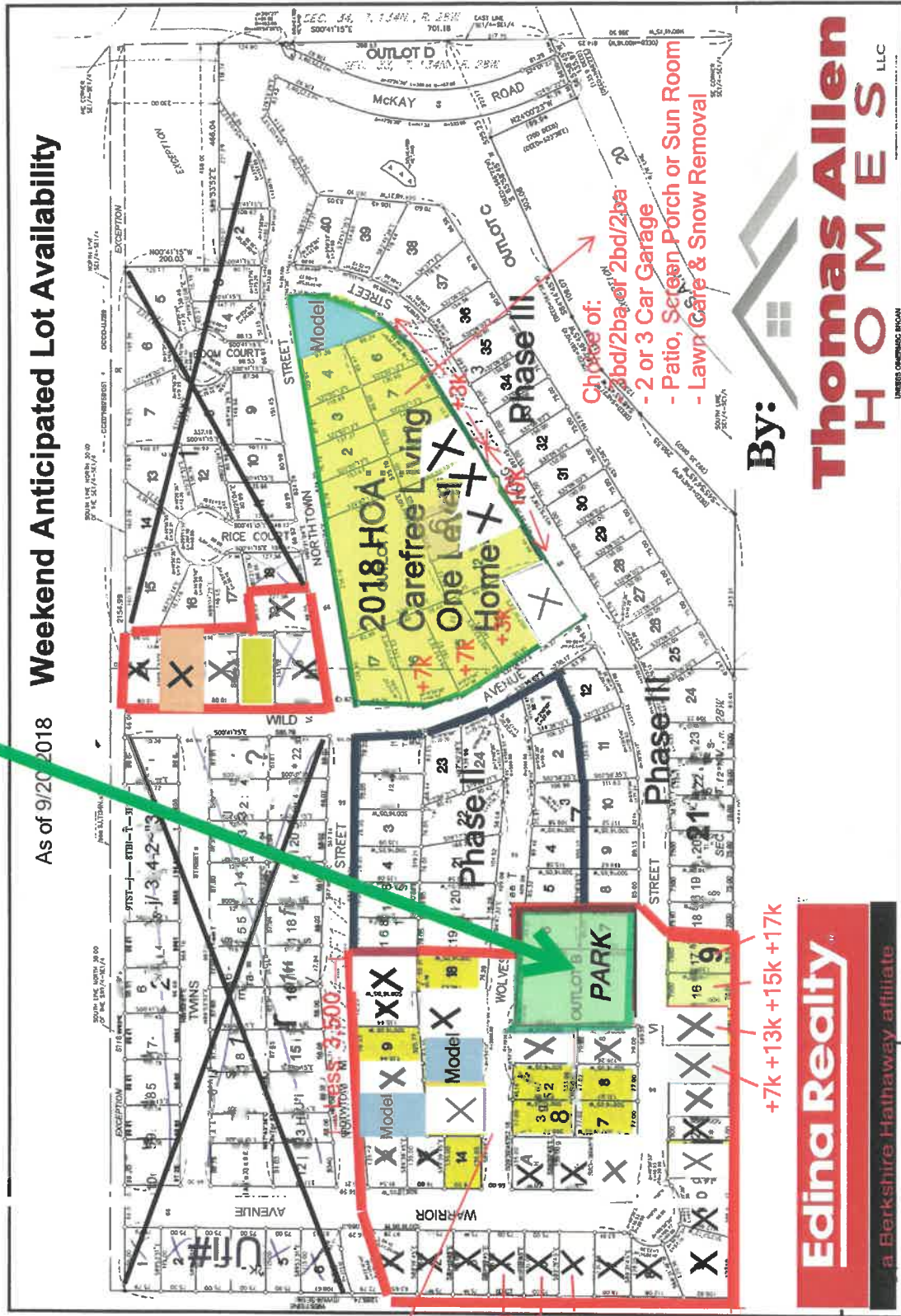
2018 Tax Payable

Net Tax (Specials Not Included):	\$180.00
Total Special Assessments:	\$0.00
Current Year Balance Due:	\$90.00
Delinquent:	NO



As of 9/20/2018

**X=For Sale
Active
Contingent**



BY:

Edina Realty

a Berkshire Hathaway affiliate

Thomas Allen
HOME SERVICES LLC

NOTES CONTINUED

Wolves-St
R/W

**EXISTING
OUTLOT
Equivalent
to 4 Lots**

**Donated
Lot #1**

092720070060009

092720070050009

0927

33

092720090800009

Equipment
Area

CITY OF BRENERD

092720070070009

092720070080009

0927

**Donated
Lot #2**



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

Date: 9/10/2018 Time: 9:32:01 AM



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**CITY OF BRAINERD
SAFETY AND PUBLIC WORKS COMMITTEE
AGENDA**

October 1, 2018
City Council Chambers
6:45 P.M.

1. Event/Street Closure Application – Brainerd Homecoming 5k, 10k, and Parade
2. Event/Street Closure Application – Rising to Recovery Walk
3. Event/Street Closure Application – Saint Francis School Marathon
4. Event/Street Closure Application – Zion Lutheran Church Trunk-or-Treat
5. Section 425 – Rental Housing Maintenance Code and Conduct on Premises Ordinance Discussion



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

Parade
Oct. 6, 2018
Starts @ 10:30



Street Closure, Special Event And Festival Application

Brainerd, Minnesota

Thank you for your interest in organizing a special event in Brainerd. The City is home to numerous cultural, community, and recreational events. These events are integral to our sense of community, and they play an important economic role by increasing tourism, generating downtown foot traffic, and fostering a festive atmosphere within the City. We look forward to working with you to help make your event a success.

All special events and festivals that require significant logistics planning between City departments or are requesting a street closure must submit this application to the City Administrator's Office at least thirty (30) days prior to the event. Event planners are encouraged to submit their applications as early as possible. City Council must approve all street closure requests, and additional licenses and permits may also be required, as outlined in part III of this application.

For questions, please contact the City of Brainerd Engineering Office at:

501 Laurel Street
Brainerd, MN 56401
Phone: (219) 828-2309
Email: engineering@ci.brainerd.mn.us

Application for a Street Closure, Special Event and Festival Permit

PART I: GENERAL INFORMATION

Name of the event: Brainerd Homecoming-5K, 10K, Parade
Date(s) of the event: October 6, 2018
Time of event (setup to breakdown): 7:30 am - Noon
Location: Brainerd - See maps
Estimated number of attendees: 5K/10K=250 Parade=1500

Organizer Information

Organizer's name (Please print): Races=Brainerd Jaycees, Parade=Brainerd Community Action
Organizer's address: 213 S. 5th Street, Brainerd, MN 56401
Event contact person: Races=Chris Hanson, Parade=Holly Holm
Event contact daytime phone number: (h) _____ (w) 218-820-5270 (c) 218-820-3271 CH: 218-820-1300
Event contact persons e-mail address: christopher.hanson@isd181.org
holly@brainerdcommunityaction.org
Contact name and phone number to be used on the day of the event:
(h) _____ (w) _____ (c) 218-820-1300 CH: 218-820-1300
For Profit/Nonprofit status (type): Nonprofit

Applicant Information, if different from the event organizer:

Applicant name (Please print): _____
Applicant address: _____
Applicant's telephone number (h) _____ (w) _____ (c) _____
Event contact e-mail address: _____

Description of Activities

Brief description of the activities planned during the event: Warrior Homecoming Run-
Kick off your Homecoming weekend and participate in the annual 5k/10k run and walk whose proceeds benefit
Warrior Athletics, Arts, Academics and Activities! Once again, we will be offering a 1k Fun Run. Now all ages and abilities can participate.
Homecoming Parade to showcase Warrior Pride before the big game!

If a parade, please describe the proposed route with the assembly and dispersal locations and attach a map: Assembly on Front Street (6th to 4th) and Laurel (6th to East River Road)
Route travels south on 5th to College Drive, turning North on to East River Road.

Site Information

Electrical usage? Yes ☐ No ☒

Describe the type of equipment to be used and how you intend to supply the power:

Amplified sound? Yes ☒ No ☐

Description of any recording and sound amplification equipment to be used in your event and the times:

There will be an emcee announcing parade units staged in front of the High School.

Restrooms provided? Yes ☐ No ☒ How many? _____

A ratio of 1 restroom for every 100-150 people is recommended.

Company contracted for restrooms: _____

If restrooms are provided by neighboring property(s) please submit the location and the property owner's signature to verify that approval has been granted.

Sign, banners, and posters/flyers? Yes ☒ No ☐

Locations and descriptions: Distributed throughout the community.

Trash Disposal? Yes ☐ No ☒

Company contracted for trash disposal: _____

Event Layout and Street Site Map Yes ☒ No ☐

Please provide a layout of the event showing booths, staging, amusements, food, etc. and also provide a street map or park map showing the borders of the event.

Area Notification

Please describe your plans to notify property owners, tenants, and/or businesses within 300 feet of the event or festival site prior to City Council meeting.

I will speak to the Postmaster and be sure that the public will have access to Post Office. Public Service

Announcements will be sent out, along with social media announcements.

PART II: STREET CLOSURE REQUEST

While the City continues to treat downtown as a venue for special events, event plans must be balanced with the interests and needs of property owners.

Throughout all events, businesses should be reasonably accessible to the general public. If a business's entrance is blocked by the event layout, then accommodations such as signage, handbills, or similar methods should be made available to mitigate the impact on customer access. If a street closure occurs along residential streets, reasonable efforts must be made to alert all property owners along the road of the proposed closure. All street closures must be approved by City Council.

Please describe the name and sections of the streets for which you are requesting temporary closure (e.g. "South 7th Street between Maple Street and Front Street").

See attached maps

Time and date for beginning of street closures: 7:30 am, October 6, 2018.

Time and date for reopening of streets: 11:30 am, October 6, 2018.

Please describe your plans to notify property owners, tenants, and/or businesses along the affected route of the proposed street closure within 300 feet prior to City Council meeting. The City will supply you with a Notice of Hearing flyer to use in notification that lists the necessary information.

I will speak to HRA and notify businesses and residents that will be affected.

Failure to notify property owners and tenants in street closure areas will result in revocation of street closure permit.

Please describe how your event preserves customer and residential access for businesses and houses along your proposed street closure (e.g. preserving pedestrian flow along the downtown sidewalks). Additional pages or proposed layouts may be attached.

All businesses will have access. Apartment tenants will be allowed through the road closures.

PART III: CONTACTS, PERMITS, AND FEES CHECKLIST

Each special event has its own requirements and needs. Listed below is a summary of the permits and fees common to many special events. Please note that it is not necessary to have all permits approved upon submission of this application. However, this checklist should serve as a guide as you plan your event. *All special events must have all permits and fees paid and approved prior to the start of the event.*

Permit, License, or Checklist	Yes	Pending	N/A	Contact (See contact information below)
Authorization to use a city park			X	Contact the Parks & Recreation Department for information.
Fire/EMS/Police support	X			Check yes to request emergency support. The appropriate level of fire, EMS, and police support will be determined by the City based on crowd size and the type of event. Fees may be discussed with the sponsor.
Food and vendor licenses			X	All vendors must apply for a temporary license through the Commissioner of Revenue's Office. Food vendors are required to collect and report meals tax.
Health Department permit			X	All food vendors must apply for a temporary food permit through the Minnesota Health Department (MDH).
Insurance certificate	x			May be required before issuing a permit.
Sign/banner permits			x	Contact the Planning Department for information.
Parade permit		X		Issued by the Police Department after complete submission of application.
Street closure		X		Must be approved by City Council after submission of the special events application. Contact the City Engineering Department for information/procedure. Closure of a State highway must be approved by MNDOT prior to City Council review.
Alcohol Use Permit			X	Must be approved by City Council after submission of the special events application. Contact the City Administrator's Office for information/procedure.

Contact Information:

Administrator's Office:	(218) 828-2307 E-MAIL admin@ci.brainerd.mn.us
Engineering Department:	(218) 828-2309 E-MAIL engineer@ci.brainerd.mn.us
Commissioner of Revenue:	(651) 282-5225 E-MAIL www.taxes.state.mn.us
Parks and Rec. Department:	(218) 828-2320 E-MAIL parks@ci.brainerd.mn.us
Planning Department:	(218) 828-2309 E-MAIL planning@ci.brainerd.mn.us
Police Department:	(218) 829-2805 E-MAIL police@ci.brainerd.mn.us
MN Department of Health	(320) 223-7300 E-Mail www.health.state.mn.us
MNDOT – Baxter Office	(218) 828-5700 E-Mail www.dot.state.mn.us

For Official Use Only

Department Sign-offs Required

Department	Date/Initials	Comments
Brainerd Public Utilities	<u>OK</u>	<u>NONE</u>
City Administration	<u>OK</u>	<u>NONE</u>
Engineering Department	<u>OK</u>	<u>TRAFFIC CONTROL NEEDS SUBMITTED TO</u> <u>ENGINEERING STAFF.</u>
Fire Department	<u>OK</u>	<u>NONE</u>
Fire Support/EMS	<u>OK</u>	<u>NONE</u>
Parks Department	<u>OK</u>	<u>NONE</u>
Planning Department	<u>OK</u>	<u>NONE</u>
Police Department	<u>OK</u>	<u>POLICE PRESENCE AT EVENT, WORK</u> <u>WITH POLICE STAFF.</u>

Event Application Approval

The event as described above is approved subject to any conditions noted on this form or otherwise set forth by the City of Brainerd.

City Administrator or Parks & Recreation Director

Date

Approval Conditions

Certification of Street Closure Approval

The street closure request as described herein was approved by the City Council at their _____, 20__ meeting. Approval is subject to the following condition(s):

PART IV: HOLD HARMLESS AGREEMENT AND INSURANCE INFORMATION

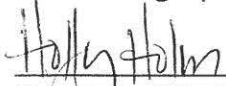
The applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the applicant's event herein described.

The City, in its discretion, may require the Applicant to obtain liability insurance for any special event. If liability insurance is required, the following requirements apply:

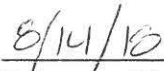
- a. Minimum of \$1,000,000 in commercial general liability insurance.
- b. Applicant's insurance shall be primary.
- c. Insurance shall cover liability for injury death and property damage including coverage for alcohol related claims, if alcohol will be served.
- d. The insurance policy must be issued by an insurance company licensed to do business in Minnesota acceptable to the City.
- e. The City must be named as an "Additional Insured" on the policy.
- f. At least ten (10) days prior to the event, the applicant must give to the City a Certificate of Insurance showing the required coverage.

PART V: SIGNATURE OF EVENT APPLICANT

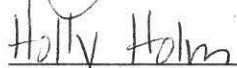
I attest that the above information is true and accurate and I have signed this application on behalf of the Applicant. I certify under penalties of perjury that I am authorized to execute contracts and other instruments and legally bind the Applicant.



Signature of the Event Applicant



Date submitted to the City

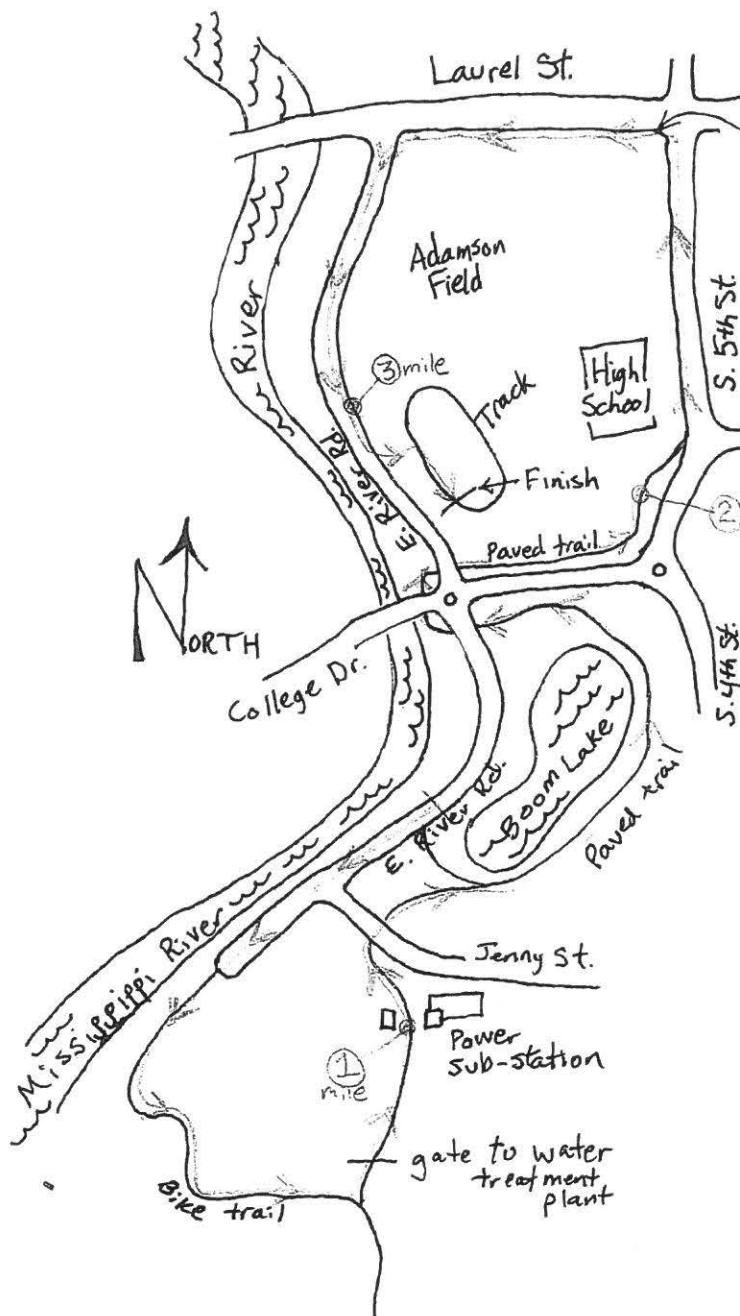


PRINT NAME

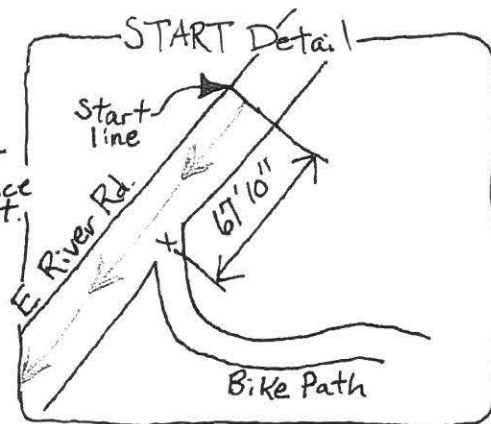
Event Applicant Title

Brainerd Homecoming 5k

Brainerd, MN 56401



Runners use sidewalk (South side) for Laurel St. section



Start: 67' 10" N of center point of intersection of E side of E River Rd and bike path @ SE corner of Boom Lake. Marked with paint and nails on both sides of E River Rd.

Mile 1: 48' 3" S of center of sewer grate located on service road to water treatment plant next to Power substation # 44.

Mile 2: On bike path 102' N of N edge of sewer grate located on W side of S. 5th St. 1st sewer grate S of Quince St. / S. 5th St intersection.

Mile 3: 65' 6" from fiber optic CTC pole located outside fence line at N end of Brainerd High School track in line with long jump runways.

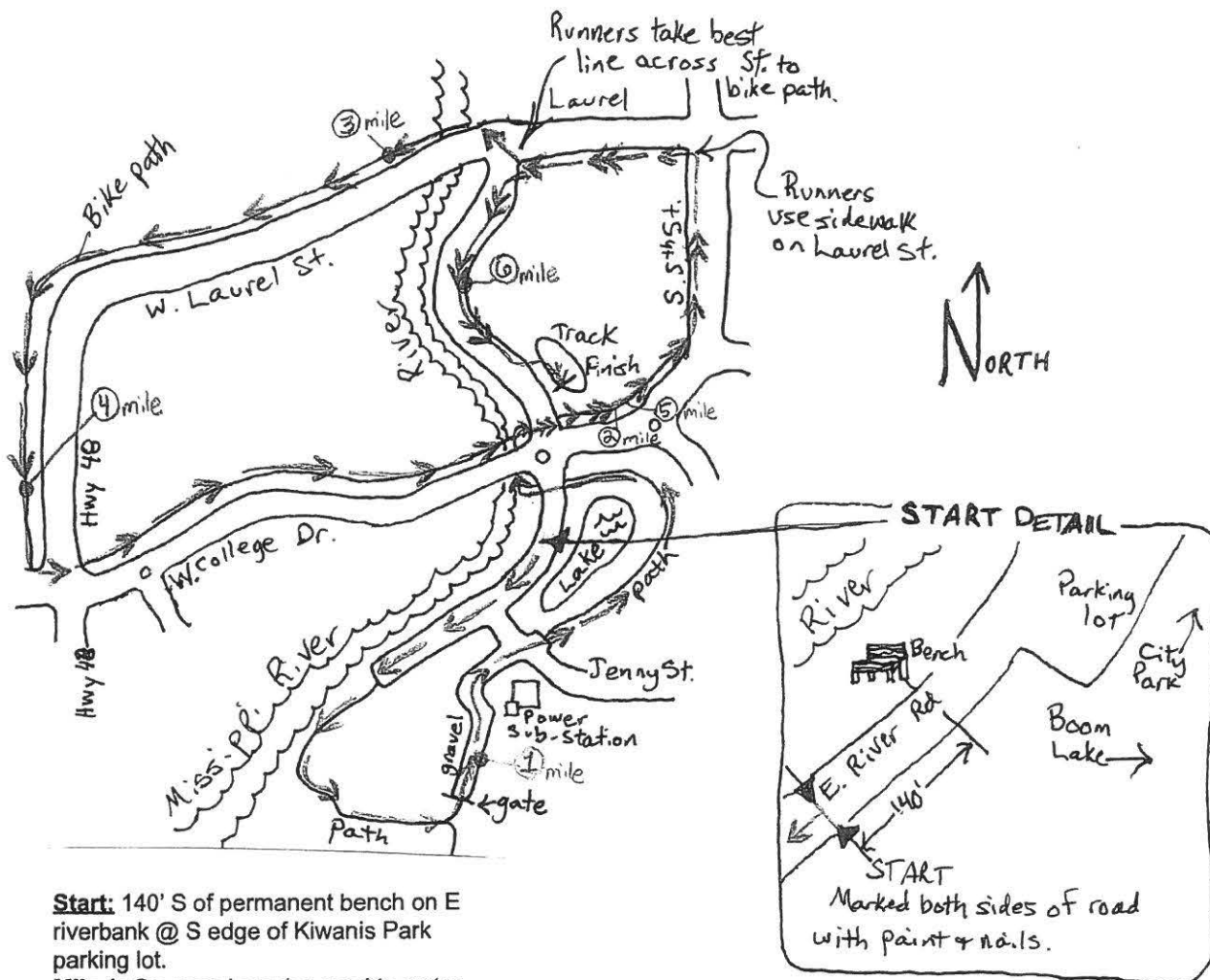
Finish: Enter Brainerd High School track through W gate near 100m start line and take best line to official track finish line.

Course description: From start, head SW on E River Rd, continuing on paved bike path and curving E to intersection with gravel service Rd to city water treatment plant. Turn N on service road to Jenny St. Cross Jenny St. to bike path and run around E side of Boom Lake. At N end of lake at Kiwanis Park, take best line W to paved path / W College Drive underpass. Path crosses river and turns E across E River Rd uphill to Quince St. Runners take best line from end of path to S. 5th St and proceed North to Laurel St. At Laurel St. runners are directed to sidewalk on S side of Laurel St. and head E. At intersection with 4th St. turn S on E River Rd to W entrance of Brainerd High School track, taking best line on track to finish line.

All points marked with paint.

Brainerd Homecoming 10k

Brainerd, MN 56401



Start: 140' S of permanent bench on E riverbank @ S edge of Kiwanis Park parking lot.

Mile 1: On gravel service road to water treatment plant. GPS coordinates N46 20.469, W094 12.567

Mile 2: 73' S. of mile mark 5. (see below)

Mile 3: 9' SW of center of 1st sewer grate W of bridge over Mississippi River on NW curb of W Laurel St.

Mile 4: 40' S of cable utility box A2-9 on W side of bike trail parallel to HWY 48.

Mile 5: 96' W of city light pole on NE quadrant of round-a-bout connecting S 4th St., S. 5th St., and College Dr.

Mile 6: 18' 5" N of center of crosswalk between S parking lot of North Star Apartments and access trail through the NW gate of Adamson field on E River Rd.

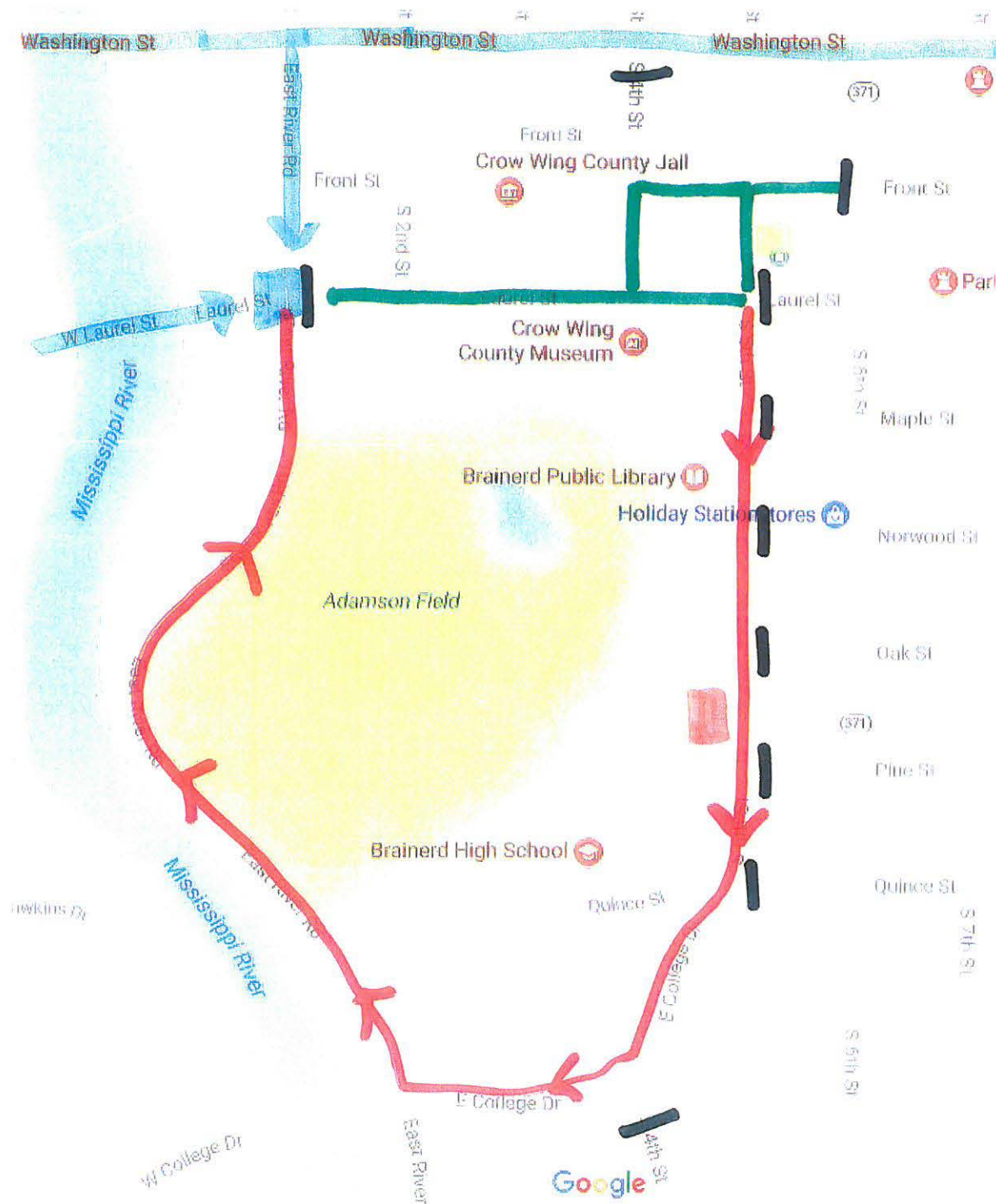
Finish: Enter Brainerd High School track through W gate near 100m start line and take best line to track finish line.

Course description: From start, head SW on E River Rd, continuing on paved bike path and curving E to intersection with gravel service rd to city water treatment plant. Turn N on service road to Jenny St. Cross Jenny St. to bike path and run around E side of Boom Lake. At N end of lake at Kiwanis Park, take best line W to paved path / W College Drive underpass. Path crosses river and turns E across E River Rd up hill to Quince St. Runners take best line from end of path to S. 5th St and proceed North to Laurel St. At Laurel St. runners are directed to sidewalk on S side of Laurel St. and head E. At intersection with 4th St, runners are directed across Laurel to paved path on N side of Laurel using best line tangent. Take path W and S to intersection with W College Dr. Use crosswalk across Hwy 48 to reach paved path on N side of W College Dr and continue to E River Rd, then repeat College Dr/S. 5th/Laurel St. section to E River Rd. Turn S on E River Rd to W entrance of Brainerd High School track, taking best line on track to finish line.

All points marked with paint.

Homecoming Parade Staging

- | | | |
|--|---|--|
|  Parade Route |  Restrooms |  Staging Area |
|  Registration |  Emcee/Judging |  Barricade |





Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



SPECIAL EVENT APPLICATION

Date of Application: 9-25-18

Event applications that do not include a street closure must be submitted to the Parks & Recreation Department at 1619 Washington Street NE, Brainerd, MN 56401 or parks@ci.brainerd.mn.us at least 14 calendar days prior to the event. Applications that include a street closure must be submitted to the Engineering Department at 501 Laurel Street, Brainerd, MN 56401 or engineer@ci.brainerd.mn.us at least 30 calendar days prior to the event and will require City Council approval.

Type of event: ☐ Event – City Parking Lot ☒ Event – City Park
☐ Event with Street Closure ☐ Other _____

Name of event: Rising to Recovery Walk

Organizer Information

Organizer's Name: Sober Squad
Organizer's Address: 6017 Birchdale rd Brainerd, MN 56401
Event Contact Person: Nicholas Awalt
Event Contact Daytime Phone: 218-821-0892
Event Contact E-mail Address: nawalt44@gmail.com
Contact Name/Number Day of Event: Brittany Egan 218-821-2026
For Profit/Nonprofit Status (type): Non-Profit

Applicant information (if different from the event organizer):

Applicant Name: Nicholas Awalt
Applicant Address: 6017 Birchdale rd Brainerd, MN
Applicant Phone: 218-821-0892
Applicant E-mail Address: nawalt44@gmail.com

Event Information

Event Details (list each date separately)

Event Date	Start Time	End Time	Event Location(s) – see locations listed below
10-21-18	11am	4pm	Lum Park

Event locations (all dimensions are parking lot usable space estimates):

- City Hall Parking Lot (130' x 146')
- Laurel Street Parking Lot (92' x 120')
- Front Street Parking Lot (66' x 125')
- City Street(s) (street closure request information on page 4 MUST be filled out)
- City Park (must contact the Parks & Recreation Department for information)
- Other (specify location above)

Description of Activities

Brief description of the activities planned during the event. If a parade/run/walk event, please describe the proposed route with the assembly and dispersal locations and attach a route map:

The Main purpose is to have a walk for recovery that starts at Lum Park goes west on Hwy 210 to Gillis Ave then North to D St. NE then East to Mill Ave head North on Mill Ave. 1st NE Back to Lum Park

Site Information

Electrical usage

☒ Yes

☒ No

Describe the type of equipment to be used and how you intent to supply the power:

We plan to have a DJ there to play
some easy listening music lightly with announcements for prizes

Amplified Sound

☒ Yes

☐ No

Describe any recording and sound amplification equipment to be used in your event along with the times:

Plan to announce prizes won from drawings

Restrooms provided

☒ Yes

☐ No

If yes, how many 2 (a ratio of 1 for every 100-150 people is recommended)

Company contracted for restrooms: Restrooms in the Park

(if restrooms are provided by neighboring property(s), please submit the location and property owner's signature to verify approval has been granted)

Signs, banners, and/or posters/flyers

☐ Yes

☒ No

Describe the signs, banners, posters, flyers and the locations:

Trash Receptacle Disposal

☒ Yes

☐ No

Company contracted for trash receptacle disposal: Trash Bins at the park

Additional Event Information

Please provide a layout of the event showing booths, tents, staging, amusement, food, etc and provide a street map or park map showing the borders of the event.

Throughout all events, businesses should be reasonably accessible to the public. If a business's entrance is blocked by an event layout, then accommodations such as signage, handbills, or similar methods should be made available to mitigate the impact on customer access.

A \$100/day security deposit is required (payable by check only). The security deposit will be refunded should the event site be left clean and void of trash and all event items are removed on the last day of the event. An event that does not occur will not have its security deposit refunded except for hazardous weather conditions, as determined by the City of Brainerd.

Street Closure Request Information

Describe the name and sections of the streets for which you are requesting temporary closure (e.g. South 7th Street between Maple Street and Front Street):

NA

Date and time for beginning of street closures: _____

Date and time for reopening of streets: _____

Describe how your event preserves customer and residential access for businesses and houses along your proposed street closure (e.g. preserving pedestrian flow along sidewalks). Additional pages may be attached.

While the City continues to treat downtown as a venue for events, event plans must be balanced with the interests and needs of property owners.

If a street closure occurs along residential streets, reasonable efforts must be made to alert all property owners along the street of the proposed closure. All street closures shall be approved by the City Council. Failure to notify property owners and tenants in street closure areas will result in revocation of this permit.

For information regarding a street closure, please contact the City Engineering office at 218-828-2307 or engineer@ci.brainerd.mn.us.

Hold Harmless Agreement and Insurance Information

The Applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the applicant's event herein described.

The City, at its discretion, may require the Applicant to obtain liability insurance for any event. If liability insurance is required, the following requirements apply:

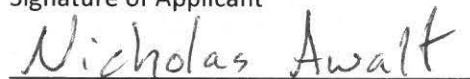
- Minimum of \$1,000,000 in commercial general liability insurance.
- Applicant's insurance shall be primary.
- Insurance shall cover liability for injury death and property damage including coverage for alcohol related claims if alcohol will be served.
- The insurance policy must be issued by an insurance company licensed to do business in Minnesota acceptable to the City.
- The City must be named as an "Additional Insured" on the policy.
- At least ten (10) days prior to the event, the Applicant must provide to the City a Certificate of Insurance showing the required coverage.

Signature of Event Applicant

I attest that the above information is true and accurate, and I certify under penalties of perjury that I am authorized to execute contracts and other instruments and legally bind the Applicant.



Signature of Applicant



Print Name

Contacts, Permits, and Fees Checklist

Each event has its own requirements and needs. Listed below is a summary of the permits common to many events. Please note that it is not necessary to have all permits approved upon submission of this application. However, this checklist should serve as a guide as you plan your event. *All events must have all permits and fees paid and approved prior to the start of the event.*

The Event Planner is responsible for providing the following (as needed) information:

Permit, License, or Checklist	Yes	Pending	N/A	Contact (See contact information below)
Authorization to use a city park		X		Contact the Parks & Recreation Department for information/procedure.
Fire/EMS/Police support			X	Check yes to request emergency support. The appropriate level of fire, EMS, and police support will be determined based on crowd size and the type of event. Fees may be discussed with the sponsor.
Food and vendor licenses			X	All vendors must apply for a temporary license through the Commissioner of Revenue's Office. Food vendors are required to collect and report meals tax. Contact City Hall for information/procedure.
Health Department Permit			X	All food vendors must apply for a temporary food permit through the Minnesota Health Department (MDH).
Insurance Certificate			X	May be required before issuing a permit.
Sign/banner Permits			X	Contact the Planning Department for information/procedure.
Parade Permit			X	Issued by the Police Department after complete submission of application.
Alcohol Use Permit			X	Must be approved by City Council after submission of the event application. Contact City Hall for information/procedure.

Contact Information

Administration Department:	(218) 828-2307 admin@ci.brainerd.mn.us
Parks and Recreation Department:	(218) 828-2320 parks@ci.brainerd.mn.us
Engineering Department:	(218) 828-2307 engineer@ci.brainerd.mn.us
Planning Department:	(218) 828-2307 planning@ci.brainerd.mn.us
Police Department:	(218) 829-2805 police@ci.brainerd.mn.us
Fire Department:	(218) 828-2312 fire@ci.brainerd.mn.us
MN Commissioner of Revenue:	(651) 282-5225 www.revenue.state.mn.us
MN Department of Health	(320) 223-7300 www.health.state.mn.us
MNDOT Baxter Office	(218) 828-5700 www.dot.state.mn.us

For Official Use Only

Department Sign-offs Required

Department	Date/Initials	Comments
Brainerd Public Utilities	<u>OK</u>	<u>None</u>
City Administration	<u>OK</u>	<u>None</u>
Engineering Department	<u>OK</u>	<u>None</u>
Fire Department	<u>OK</u>	<u>None</u>
Fire Support/EMS	<u>OK</u>	<u>None</u>
Parks Department	<u>OK</u>	<u>Authorization to use city park pending</u>
Planning Department	<u>OK</u>	<u>None</u>
Police Department	<u>OK</u>	<u>Coordinate w/ police department if any request</u>

Event Application Approval

The event as described above is approved subject to any conditions noted on this form or otherwise set forth by the City of Brainerd.

City Administrator or Parks & Recreation Director

Date

Approval Conditions

Certification of Street Closure Approval

The street closure request as described herein was approved by the City Council at their _____, 20__ meeting. Approval is subject to the following condition(s):



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



SPECIAL EVENT APPLICATION

Date of Application: _____

Event applications that do not include a street closure must be submitted to the Parks & Recreation Department at 1619 Washington Street NE, Brainerd, MN 56401 or parks@ci.brainerd.mn.us at least 14 calendar days prior to the event. Applications that include a street closure must be submitted to the Engineering Department at 501 Laurel Street, Brainerd, MN 56401 or engineer@ci.brainerd.mn.us at least 30 calendar days prior to the event and will require City Council approval.

Type of event: Event – City Parking Lot Event – City Park
 Event with Street Closure Other _____

Name of event: _____

Organizer Information

Organizer's Name: _____

Organizer's Address: _____

Event Contact Person: _____

Event Contact Daytime Phone: _____

Event Contact E-mail Address: _____

Contact Name/Number Day of Event: _____

For Profit/Nonprofit Status (type): _____

Applicant information (if different from the event organizer):

Applicant Name: _____

Applicant Address: _____

Applicant Phone: _____

Applicant E-mail Address: _____

Event Information

Event Details (list each date separately)

Event Date	Start Time	End Time	Event Location(s) – see locations listed below

Event locations (all dimensions are parking lot usable space estimates):

- City Hall Parking Lot (130’ x 146’)
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- Other (specify location above)

Description of Activities

Brief description of the activities planned during the event. If a parade/run/walk event, please describe the proposed route with the assembly and dispersal locations and attach a route map:

Site Information

Electrical usage	Yes	No

Describe the type of equipment to be used and how you intent to supply the power:

Amplified Sound	Yes	No

Describe any recording and sound amplification equipment to be used in your event along with the times:

	Yes	No
Restrooms provided		

If yes, how many _____ (a ratio of 1 for every 100-150 people is recommended)

Company contracted for restrooms: _____
(if restrooms are provided by neighboring property(s), please submit the location and property owner's signature to verify approval has been granted)

Signs, banners, and/or posters/flyers	Yes	No

Describe the signs, banners, posters, flyers and the locations:

Trash Receptacle Disposal	Yes	No
---------------------------	-----	----

Company contracted for trash receptacle disposal: _____

Additional Event Information

Please provide a layout of the event showing booths, tents, staging, amusement, food, etc and provide a street map or park map showing the borders of the event.

Throughout all events, businesses should be reasonably accessible to the public. If a business's entrance is blocked by an event layout, then accommodations such as signage, handbills, or similar methods should be made available to mitigate the impact on customer access.

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- Applicant's insurance shall be primary.
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Signature of Event Applicant

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Signature of Applicant

Print Name

Contacts, Permits, and Fees Checklist

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Permit, License, or Checklist	Yes	Pending	N/A	Contact (See contact information below)
Authorization to use a city park				Contact the Parks & Recreation Department for information/procedure.
Fire/EMS/Police support				Check yes to request emergency support. The appropriate level of fire, EMS, and police support will be determined based on crowd size and the type of event. Fees may be discussed with the sponsor.
Food and vendor licenses				All vendors must apply for a temporary license through the Commissioner of Revenue's Office. Food vendors are required to collect and report meals tax. Contact City Hall for information/procedure.
Health Department Permit				All food vendors must apply for a temporary food permit through the Minnesota Health Department (MDH).
Insurance Certificate				May be required before issuing a permit.
Sign/banner Permits				Contact the Planning Department for information/procedure.
Parade Permit				Issued by the Police Department after complete submission of application.
Alcohol Use Permit				Must be approved by City Council after submission of the event application. Contact City Hall for information/procedure.

Contact Information

Administration Department:	(218) 828-2307 admin@ci.brainerd.mn.us
Parks and Recreation Department:	(218) 828-2320 parks@ci.brainerd.mn.us
Engineering Department:	(218) 828-2307 engineer@ci.brainerd.mn.us
Planning Department:	(218) 828-2307 planning@ci.brainerd.mn.us
Police Department:	(218) 829-2805 police@ci.brainerd.mn.us
Fire Department:	(218) 828-2312 fire@ci.brainerd.mn.us
MN Commissioner of Revenue:	(651) 282-5225 www.revenue.state.mn.us
MN Department of Health	(320) 223-7300 www.health.state.mn.us
MNDOT Baxter Office	(218) 828-5700 www.dot.state.mn.us

For Official Use Only

Department Sign-offs Required

Department	Date/Initials	Comments
Brainerd Public Utilities	OK	NONE
City Administration	OK	NONE
Engineering Department	OK	ORGANIZE NEED FOR TRAFFIC CONTROL
Fire Department	OK	JAMES E 218-828-2307 NONE
Fire Support/EMS	OK	NONE
Parks Department	OK	NONE
Planning Department	OK	NONE
Police Department	OK	NONE

Event Application Approval

The event as described above is approved subject to any conditions noted on this form or otherwise set forth by the City of Brainerd.

City Administrator or Parks & Recreation Director

Date

Approval Conditions

Certification of Street Closure Approval

The street closure request as described herein was approved by the City Council at their _____, 20__ meeting. Approval is subject to the following condition(s):



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



SPECIAL EVENT APPLICATION

Date of Application: 9-20-18

Event applications that do not include a street closure must be submitted to the Parks & Recreation Department at 1619 Washington Street NE, Brainerd, MN 56401 or parks@ci.brainerd.mn.us at least 14 calendar days prior to the event. Applications that include a street closure must be submitted to the Engineering Department at 501 Laurel Street, Brainerd, MN 56401 or engineer@ci.brainerd.mn.us at least 30 calendar days prior to the event and will require City Council approval.

Type of event: ☐ Event – City Parking Lot
☒ Event with Street Closure ☐ Event – City Park
☒ Other (Alleyway)

Name of event: Zion Lutheran Church Trunkor Treat

Organizer Information

Organizer's Name: Zion Lutheran Church
Organizer's Address: 220 N. 8th St. Brainerd, Mn 56401
Event Contact Person: Jonathon Bailey
Event Contact Daytime Phone: 218-829-4317
Event Contact E-mail Address: zionlceintern@brainerd.net
Contact Name/Number Day of Event: Jonathon Bailey / 1
For Profit/Nonprofit Status (type): Non-Profit

Applicant information (if different from the event organizer):

Applicant Name: _____
Applicant Address: _____
Applicant Phone: _____
Applicant E-mail Address: _____

Event Information

Event Details (list each date separately)

Event Date	Start Time	End Time	Event Location(s) – see locations listed below
10-31-18	4:00PM	7:30 PM	Church Parking lot

Event locations (all dimensions are parking lot usable space estimates):

- City Hall Parking Lot (130' x 146')
- Laurel Street Parking Lot (92' x 120')
- Front Street Parking Lot (66' x 125')
- City Street(s) (street closure request information on page 4 MUST be filled out)
- City Park (must contact the Parks & Recreation Department for information)
- Other (specify location above)

Description of Activities

Brief description of the activities planned during the event. If a parade/run/walk event, please describe the proposed route with the assembly and dispersal locations and attach a route map:

Trunk or Treat

People decorate their cars and hand out candy to kids for Halloween

Site Information

Electrical usage

☒

Yes

☐

No

Describe the type of equipment to be used and how you intent to supply the power:

PA system / lights will be supplied from church building

Amplified Sound

☒

Yes

☐

No

Describe any recording and sound amplification equipment to be used in your event along with the times:

PA system playing music 4:30 - 7:15

Restrooms provided

☐

Yes

☒

No

If yes, how many _____ (a ratio of 1 for every 100-150 people is recommended)

Company contracted for restrooms: _____

(if restrooms are provided by neighboring property(s), please submit the location and property owner's signature to verify approval has been granted)

Signs, banners, and/or posters/flyers

☒

Yes

☐

No

Describe the signs, banners, posters, flyers and the locations:

Signs in church yard, by Franklin arts center, west greeng

Trash Receptacle Disposal

☒

Yes

☐

No

Company contracted for trash receptacle disposal: The church will provide this

Additional Event Information

Please provide a layout of the event showing booths, tents, staging, amusement, food, etc and provide a street map or park map showing the borders of the event.

Throughout all events, businesses should be reasonably accessible to the public. If a business's entrance is blocked by an event layout, then accommodations such as signage, handbills, or similar methods should be made available to mitigate the impact on customer access.

A \$100/day security deposit is required (payable by check only). The security deposit will be refunded should the event site be left clean and void of trash and all event items are removed on the last day of the event. An event that does not occur will not have its security deposit refunded except for hazardous weather conditions, as determined by the City of Brainerd.

Street Closure Request Information

Describe the name and sections of the streets for which you are requesting temporary closure
(e.g. South 7th Street between Maple Street and Front Street):

We want the Alley that runs N+S between Zion Lutheran Church
and Zion's parking lot. The Alley begins at Kingwood and ends at the
S.E. corner of the church

Date and time for beginning of street closures: October 31st 2019 4:00 PM

Date and time for reopening of streets: October 31st 2019 7:30 PM

Describe how your event preserves customer and residential access for businesses and houses along your proposed street closure (e.g. preserving pedestrian flow along sidewalks). Additional pages may be attached.

All businesses can still be accessed from the East and West
Alley between 8th & 9th Streets.

While the City continues to treat downtown as a venue for events, event plans must be balanced with the interests and needs of property owners.

If a street closure occurs along residential streets, reasonable efforts must be made to alert all property owners along the street of the proposed closure. All street closures shall be approved by the City Council. Failure to notify property owners and tenants in street closure areas will result in revocation of this permit.

For information regarding a street closure, please contact the City Engineering office at 218-828-2307 or engineer@ci.brainerd.mn.us.

Hold Harmless Agreement and Insurance Information

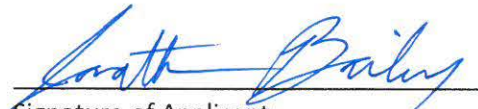
The Applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the applicant's event herein described.

The City, at its discretion, may require the Applicant to obtain liability insurance for any event. If liability insurance is required, the following requirements apply:

- Minimum of \$1,000,000 in commercial general liability insurance.
- Applicant's insurance shall be primary.
- Insurance shall cover liability for injury death and property damage including coverage for alcohol related claims if alcohol will be served.
- The insurance policy must be issued by an insurance company licensed to do business in Minnesota acceptable to the City.
- The City must be named as an "Additional Insured" on the policy.
- At least ten (10) days prior to the event, the Applicant must provide to the City a Certificate of Insurance showing the required coverage.

Signature of Event Applicant

I attest that the above information is true and accurate, and I certify under penalties of perjury that I am authorized to execute contracts and other instruments and legally bind the Applicant.


Signature of Applicant


Print Name

NA

Kingwood

Zion Lutheran
Church

Alley to be Closed

Parked here

Parking
lot

vehicles handing out candy

Alley to remain open

Little
Caesars

Stores

Contacts, Permits, and Fees Checklist

Each event has its own requirements and needs. Listed below is a summary of the permits common to many events. Please note that it is not necessary to have all permits approved upon submission of this application. However, this checklist should serve as a guide as you plan your event. *All events must have all permits and fees paid and approved prior to the start of the event.*

The Event Planner is responsible for providing the following (as needed) information:

Permit, License, or Checklist	Yes	Pending	N/A	Contact (See contact information below)
Authorization to use a city park			X	Contact the Parks & Recreation Department for information/procedure.
Fire/EMS/Police support			X	Check yes to request emergency support. The appropriate level of fire, EMS, and police support will be determined based on crowd size and the type of event. Fees may be discussed with the sponsor.
Food and vendor licenses			X	All vendors must apply for a temporary license through the Commissioner of Revenue's Office. Food vendors are required to collect and report meals tax. Contact City Hall for information/procedure.
Health Department Permit			X	All food vendors must apply for a temporary food permit through the Minnesota Health Department (MDH).
Insurance Certificate			X	May be required before issuing a permit.
Sign/banner Permits			X	Contact the Planning Department for information/procedure.
Parade Permit			X	Issued by the Police Department after complete submission of application.
Alcohol Use Permit			X	Must be approved by City Council after submission of the event application. Contact City Hall for information/procedure.

Contact Information

Administration Department:	(218) 828-2307 admin@ci.brainerd.mn.us
Parks and Recreation Department:	(218) 828-2320 parks@ci.brainerd.mn.us
Engineering Department:	(218) 828-2307 engineer@ci.brainerd.mn.us
Planning Department:	(218) 828-2307 planning@ci.brainerd.mn.us
Police Department:	(218) 829-2805 police@ci.brainerd.mn.us
Fire Department:	(218) 828-2312 fire@ci.brainerd.mn.us
MN Commissioner of Revenue:	(651) 282-5225 www.revenue.state.mn.us
MN Department of Health	(320) 223-7300 www.health.state.mn.us
MNDOT Baxter Office	(218) 828-5700 www.dot.state.mn.us

For Official Use Only

Department Sign-offs Required

Department	Date/Initials	Comments
Brainerd Public Utilities	<u>OK</u>	<u>NONE</u>
City Administration	<u>OK</u>	<u>NONE</u>
Engineering Department	<u>OK</u>	<u>TRAFFIC CONTROL REQUESTS CALL</u>
Fire Department	<u>OK</u>	<u>JAMES @ 218-454-3410</u>
Fire Support/EMS	<u>OK</u>	<u>NONE</u>
Parks Department	<u>OK</u>	<u>NONE</u>
Planning Department	<u>OK</u>	<u>NONE</u>
Police Department	<u>OK</u>	<u>NONE</u>

Event Application Approval

The event as described above is approved subject to any conditions noted on this form or otherwise set forth by the City of Brainerd.

City Administrator or Parks & Recreation Director

Date

Approval Conditions

Certification of Street Closure Approval

The street closure request as described herein was approved by the City Council at their _____, 20__ meeting. Approval is subject to the following condition(s):



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



MEMO

TO: Safety and Public Works Committee

FROM: City Engineer Sandy and Police Chief McQuiston

DATE: September 24, 2018

SUBJECT: Rental Housing Maintenance Code and Conduct on Premises Ordinance Discussion

At the previous council meeting on September 17, 2018, the Safety and Public Works committee requested of staff to put together some information and review the Rental Housing Maintenance Code and the Conduct on Premises Ordinance contained therein. Staff has reviewed the ordinance that can be seen attached to this memo and will provide some context and possible areas of improvement or changes through this memo.

Background

The Rental Housing Maintenance code and was put into place so that there are minimum standards for maintenance and licensure requirements for rental properties around the City. The Housing Maintenance Code provides minimum maintenance standards, licensure requirements, and conduct on premises ordinances relating to premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, and occupants; the occupancy of existing structures and premises, and for administration, enforcement, and penalties. The Conduct on Premises consisting of the last two pages of the Housing Maintenance Code Ordinance Section 425 under Section 425.2020 prohibits conduct which is determined to be disorderly by statute or ordinance within the premises of rental properties and puts the onus on the rental licensee to take appropriate action, with assistance from the Brainerd Police Department, following disorderly conduct on the premises.

Rental Housing Maintenance Code Highlights and Areas for Improvement and/or Potential Changes

Staff has attached the rental housing inspection form utilized by our housing maintenance inspector on routine inspections along with Section 425 of the Brainerd City Code for reference. These inspections are held once every 3-years for each rental property, unless more frequent inspections are determined to be necessary by the housing inspector. The housing inspection form outlines the inspectors name, date of the inspection or re-inspection (based upon a failure of the previous inspection), the street address and name of the owner of the unit. Each item

inspected during the inspection has a points value associated with it, depending on the nature or severity of the violation. The point totals can be seen listed on the inspection sheet. By ordinance, a total of 25 points is considered a failing inspection and triggers a re-inspection by the housing inspector. A violation will receive the maximum points when a required item is completely absent, completely fails to perform its function, or is imminently hazardous to the health and safety of the occupants. In a lot of cases, it is up to the housing inspector to identify the severity of the violation and assign points values which may be less than the maximum value.

If the housing inspector determines that a building or dwelling unit fails to meet the requirements, mailed notice is sent to the owner or owners agent identifying why the building does not meet the licensing standards and will include a copy of the inspection report if applicable. If the dwelling fails to meet the standards in 425.1910, the license holder or applicant has 10 days to correct the defects, at which time the City Council will act to deny, refuse to renew, revoke, or suspend the rental license. If the dwelling does not meet the standards set forth in 425.1920, the license holder has up to 30 days to correct the substandard conditions, at which time the City Council will act to deny, refuse to renew, revoke, or suspend the rental license. However, the housing inspector for good cause may authorize additional time to correct defects causing a building to be substandard. If the defects create an imminent hazard to health or safety, the housing inspector may proceed immediately for denial, non-renewal, revocation, or suspension under Section 425.1940, or may shorten the timeline for compliance to less than 30 days.

Considerations on Possible Changes

There are a few things that the committee could consider to changes in the ordinance, them being:

1. Changing the point totals for a failure of the inspection – Current point total for a failing inspection is 25 or more points. You can see that many of the violations are more than 30 points. Many of the violations with over 30 points are an automatic failure of the inspection such as many things to do with fire codes, exterior envelope items such as roofing and foundations, decks and stoops, illegal building/occupancy, etc. If the total points are amended, staff would recommend and must review the overall pointing structure for each category.
2. Points for successive or re-inspections – The possibility of adding a multiplier to items that failed the first inspection and are not resolved by a re-inspection.
3. Changing the inspection frequency or how to process inspections that get points allotted because of violations but do not fail inspection – Current inspection frequency is every 3 years. Some inspections may still get some violations, but do not break the 25-point threshold for failure, thus a re-inspection is not scheduled until the next regularly scheduled 3-year inspection cycle.
4. Look into possibly adopting the International Property Maintenance Code (this is out of the scope for this conversation, but staff can pursue this option if directed from Council).

In short, after a review of the current housing maintenance code, staff has concluded that the ordinance pertaining to maintenance of rental properties (containing everything except the last two pages which deal with Conduct on Premises) does not need a lot of modification. However, some discussion should be held relating to the points listed above under Considerations on Possible Changes.

Conduct on Premises Code Highlights and Areas for Improvement and/or Potential Changes

The last two pages of Section 425 Rental Housing Maintenance Code contain the Conduct on Premises ordinance. The ordinance puts the onus and responsibility of the rental license holder to ensure that disorderly conduct on the premises does not take place and lays out penalties for conduct on premises happening at a property. The ordinance references a few statutes which include 504B.171 which prohibits illegal activities such as prostitution, unlawful sale of controlled substances, and unlawful sale, possession, transport or use of weapons, and possession of stolen property. It also references 609.75 and 6.9.76 which prohibit gambling, 340A.401 which prohibits the unlawful sale of alcohol, 609.72, which addresses disorderly conduct, 609.33 which addresses disorderly house, and 2014 of the Brainerd City Code which deals with noise related complaints.

Upon the determination that a licensed premise was used in a disorderly manner, the police department notifies the owner by mail of the violation and directs the licensee to take appropriate action to prevent further violations. If another instance of disorderly use on the licensed premises occurs within 12 months of the first, the police department notifies the licensee by mail of the violation, and the licensee is then to submit a written management plan within 10 days of the receipt of the notice which outlines all actions that the licensee will take in response to the disorderly use of the premises. The plan also details what future actions the licensee will take to prevent any future disorderly use of the premises. There are two different scenarios if a licensed property has a third instance of disorderly use:

- If the property has between 1 and 6 distinct and separate residential units, the third disorderly use cannot happen within 18 months.
- If the property has more than 6 distinct and separate residential units, the third disorderly use cannot happen within 12 months.

If the licensed dwelling were sent the notices pursuant of the section of ordinance, the rental license on the premises may be denied, revoked, suspended, or not renewed. No license action can take place where the instance of disorderly use occurred during a pendency of eviction proceedings or after notice has been given to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests.

Considerations on Possible Changes

There are a few things that the committee may consider changing in regard to the conduct on premises ordinance. They include:

1. Changing the time frames listed for the second and third offenses to occur. Lengthening the time frames would make the ordinance more stringent.
2. Include buffer zones around certain areas in the City such as school, churches, etc. that have different guidelines.
3. Change the definition of disorderly use to be more stringent or more lenient. If the committee would like to consider this, staff would like to consider adding statutes related to assault or other serious offenses and making the ordinance more stringent on what constitutes conduct on premises.
4. Consider adding the Social Host Ordinance to the list of offenses that warrant Conduct on Premises (Section 2007 Brainerd City Code)
5. Writing some language in the ordinance about allowing written management plans to apply to all the property owners' rental units around the City for a period of time (6

months?). If the committee would like to consider this, staff would consider a unit cap for this requirement (20 or more units in one location, this would not apply?).

6. Have the ordinance looked in detail by the attorney to word smith some areas that are gray.

Conclusion

In all these areas of possible changes, serious consideration should be made to current staffing levels, most importantly at the Police Department. The crime prevention specialist position at the Police Department handled most of the conduct on premise ordinance, and with the loss of that position, the onus of the ordinance has been put on the rest of the Police Department staff.

There are quite a few different ways into look and brainstorm changes to this ordinance, if indeed change is necessary. Staff has provided this information to the committee to generate discussion on what has worked and what may need improvement or changes based upon experiences by the police department and department of building safety.



Housing Inspection Form

Department of Building Safety

City Hall - 501 Laurel Street

Brainerd, MN 56401

(218) 828-2309 Fax: 828-2316

Email: jstockinger@ci.brainerd.mn.us

Inspector	Date of Inspection	Date of Last Inspection
Street Address of Inspected Unit	Type of Inspection _____ Initial _____ Special _____ Reinspection	
Name of Owner or Agent Authorized to Lease Unit Inspected		

HOUSING TYPE:

_____ Single Family
 _____ Duplex or Two Family
 _____ Tri-Plex
 _____ Other (specify) _____

SUMMARY DECISION ON THE UNIT(S):

☐ **PASS** _____
☐ **FAIL** _____

INSPECTION CHECK OK	VIOLATION POINTS	NOT INSPECTED	DESCRIPTION	SEE NOTES
			EXTERIOR	
	4		GROUND COVER/ DRAINAGE	
	4		ADDRESS NUMBERS	
	4 - 30		GARAGE/ ROOF, SIDING, PAINT, STRUCTURE	
	4		GRAFFITI	
	6		REPAIR/REPLACE RETAINING WALL/ FENCE	
	8		REPAIR/REPLACE CHIMNEY	
	10		REPAIR/REPLACE ROOF	
	8		REPAIR GUTTERS	
	6		EXTERIOR WALLS/ REPAIR/ SCRAPE & PAINT	
	10		FOUNDATION	
	10		REPAIR/REPLACE EXTERIOR STEPS/STAIRS	
	4		PROPER VENT TERMINATIONS	
	4		REPAIR/REPLACE HATCHWAY/CHUTES	
	4		EXTERIOR DOORS/ WEATHER STRIPPING	
	10-30		REPAIR/REPLACE BALCONY, DECK, STOOP	
	10		EXTERIOR HANDRAILS	
	10		PROVIDE/REPAIR SCREENS/ STORMDOORS	
	8		REPAIR GLASS (4 PT PER WINDOW)	
	4		POST LICENSE	

		OCCUPANCY VIOLATIONS	
	30	SECURITY DOORS	

INSPECTION CHECK OK	VIOLATION POINTS	NOT INSPECTED	DESCRIPTION	SEE NOTES
	2		PROVIDE/REPAIR BUZZER/DOORBELL	
	10		REPAIR PUBLIC AREA	
	8		NUMBER UNITS	
	2		CLEAN HALLS/UNOBSTRUCTED WALKWAYS	
	30		HALL EXIT LIGHTS	
	20		INTERIOR HANDRAILS INSTALL/REPAIR	
	30		ROOM(S) TOO SMALL/DWELLING SPACE	
	30		ILLEGAL BUILDING	
	30		UNLAWFUL OCCUPANCY/OVER OCCUPANCY	
	20 ea.		REQUIRED UTILITY DISCONNECT	
	10		CEILING HEIGHT	
	6		INTERIOR STAIRS	
	10		TENTS AND TRAILERS	
	8		SOLID WASTE STORAGE	

FIRE				
	30		FIRE EXITS/LIGHTING/FIRE EGRESS LIGHTING	
	30		REPAIR/REPLACE FIRE DOOR	
	30		PROVIDE CLOSERS	
	30		BLOCKED FIRE DOORS/UNLOCK FIRE DOORS	
	30		EXIT SIGNS	
	30		FLAMMABLE LIQUIDS/COMBUSTABLE STORAGE	
	8		CLEAN BASEMENT	
	30ea		REPAIR/INSTALL SMOKE DETECTORS	
	30		STEPS - 9"TREAD/8" RISE- 36" STAIR WIDTH	
	30ea		C.O. DETECTORS	
	10		FIRE EXTINGUISHER	

ROOMING HOUSE				
	30		ILLEGAL COOKING AREA	
	10		POST NO COOKING	
	10		LAVATORY/BATH FACILITY	
	4		CLEAN ROOMING HOUSE	

ELECTRICAL				
	2ea		FACEPLATES	
	8		REPAIR OUTLETS	
	8		PANEL ACCESS	

INSPECTION CHECK OK	VIOLATION POINTS	NOT INSPECTED	DESCRIPTION	SEE NOTES
	10-30		HAZARDOUS WIRING	
	4		INTERIOR LIGHTING/LIGHTING FIXTURES	
	20		EXIT ILLUMINATION	

PLUMBING

	30		OPEN GAS LINE/ PLASTIC GAS PIPING	
	6		SAGGING PIPES/FLEXABLE WAISTES	
	6		PLUMBING REPAIRS/FAUCETS	
	4		CLOGGED DRAIN/LEAKING DRAIN	
	30		WATER TO FIXTURES	
	30		HOT WATER	
	10		WATER PRESSURE	
	8		WATER HEATER/TPR VALVE	
	10		BATHROOM FLOOR	
	2		TOILET SEAT	
	10		BATHROOM DOOR	
	10		LIGHT/VENTILATION BATHROOM	
	4		VENT SHAFT/DRYER VENTING UL2158A	

HEATING PLANT

	30		68 DEGREES	
	10-30		SERVICE EQUIPMENT	
	2		FILTER	

INTERIOR

	8		REPAIR/REPLACE WINDOWS/LOCKS	
	8		OPENABLE WINDOWS	
	8-30ea		REPAIR/REPLACE DOOR/LOCKS/HINGES	
	1		SHADES/BLINDS	
	8-30		REPLACE LOCK - DOUBLE KEY/DEAD BOLT	
	10		WEATHERSTRIP WINDOWS/DOORS	
	30		PESTS/VERMIN	
	10ea		REPAIR FLOORS/WALLS/CIELINGS	
	30		EGRESS WINDOWS	
	20		PROVIDE KEYS	
	4		MAILBOXES	
	4		CLEANLINESS/CLUTTER	
	10		DISPOSAL OF SOLID WASTE	

Section 425 – Rental Housing Maintenance Code

CITY OF BRAINERD
RENTAL HOUSING MAINTENANCE CODE

- Art. I. Generally
- Art. II. Enforcement
- Art. III. Equipment and Facilities
- Art. IV. Light, Ventilation, and Heating
- Art. V. Maintenance by Owner
- Art. VI. Maintenance by Occupants
- Art. VII. Space, Use, and Location
- Art. VIII. Fire Protection
- Art. IX. Rooming Houses
- Art. X. Shared Bath Dwelling Units
- Art. XI. Unfit Dwellings
- Art. XII. Accessory (Non-Dwelling) Structures, Etc.
- Art. XIII. Building Security
- Art. XIV. Rental Dwelling Licenses

ARTICLE I. GENERALLY

425.10 Title. These regulations shall be known as the Rental Housing Maintenance Code of the City of Brainerd.

425.20 Scope. The provisions of this Code shall apply to all rental housing structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

425.30 Findings. The Council finds there exists in the City numerous rental housing properties that are substandard in one or more important features of structure, equipment, maintenance, or occupancy. Such conditions adversely affect public health and safety and lead to the continuation, extension, and aggravation of blight. Adequate protection of public health, safety and welfare therefore requires the establishment and enforcement of minimum property maintenance standards.

425.35 Intent. It is not the intention of the City to intrude upon the fair and contractual relationship between landlord and tenant. The City shall not intervene as an advocate of either party, or act as an arbiter, nor be receptive to complaints from tenant or landlord, which are not specifically and clearly relevant to the provisions of this Ordinance.

(Added Ord. 1331 – 2009)

425.40 Definitions. The following words and phrases when used in the Rental Housing Maintenance Code shall have the meanings respectively ascribed to them in this section:

Approved: Approved by the Housing Inspector pursuant to applicable provisions of this Code of Ordinances and other ordinances and regulations.

Attic story: Any story situated wholly or partly in the roof, so designed, arranged or built as to be used for business, storage or habitation.

Basement: Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on at least three sides, regardless of the depth of excavation below ground level.

Bath: A bathtub or shower bath.

Bedroom: A habitable room within a dwelling unit which is used, or intended to be used, primarily for the purpose of sleeping, but shall not include any kitchen or dining room.

Clean: The condition of being free from readily noticeable dirt, soil, stain, left-over food particles, or other material not intended to be a part of the object in question.

Communal: Used or shared by, or intended to be used or shared by the occupants of two or more rooming units.

Communicable disease: The following diseases, for the purposes of the Rental Housing Maintenance Code, are deemed communicable: Chicken pox, diphtheria, hepatitis, poliomyelitis, smallpox, tuberculosis, typhoid fever and fevers with rash.

Dead bolt locks: A locking bolt which, when in the locked position, can only be moved positively by turning a knob, key, sliding bolt, or by a mechanism activated by working a combination.

Dining room: A habitable room used or intended to be used for the purpose of eating but not for cooking or the preparation of meals.

Dwelling: Any building or structure, or portion thereof, except temporary housing, which is wholly or partly used or intended to be used for living or sleeping by human occupants. There are three principal types:

- (1) Single-Family: A freestanding (detached) residence structure designed for or occupied by one family only.

- (2) Two-Family: A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each, referred to commonly as a duplex.
- (3) Multiple Family: Three or more dwelling units in one structure.
Dwelling Unit: A residential building or portion thereof intended for occupancy by a single-family but not including hotels, motels, boarding or rooming houses or tourist homes.

Efficiency Unit: A dwelling unit with one (1) primary room which doubles as a living room, kitchen, and bedroom.

Emergency: Any condition or combination of conditions which in the opinion of the County Health Authority, Housing Inspector, or the Fire Chief requires immediate action for the protection of health, safety, or welfare of the occupants of a dwelling or of the public.

Extermination: The control or elimination of insects, rodents, vermin or other pests.

Family: Two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.

Fire escape: An emergency means of egress. A fire escape shall not constitute a required stairway.

Fire chief: The legally authorized Fire Chief or authorized representative.

Fire-resistive construction: Construction to resist the spread of fire, details of which are specified in the State Building Code as adopted in Section 400 of the Code of Ordinances.

Garbage: The term “garbage” means and includes organic refuse resulting from the preparation of food, and decayed and spoiled matter from any source.

Habitable floor area: An area that has a ceiling height of seven (7) feet throughout. However, on floors above the first floor the habitable area shall have a minimum ceiling height of seven (7) feet over fifty (50) per cent or more of its area, and no part of any floor having a ceiling height of less than five (5) feet shall be considered as part of the habitable floor area; and further, dwellings shall have a minimum ceiling height of not less than seven (7) feet over fifty (50) per cent of the floor area. See Section 425.800 for ceiling height exceptions.

Habitable room: Any room meeting the requirements of this code for sleeping, living, cooking or dining purposes excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, recreation rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

Hazardous heating installations: All heating installations except those which conform with the applicable laws regulating the installation of such space heating in effect now or at the time of installation and which have been maintained in good repair and working condition and are being used in a safe manner.

Hazardous plumbing: All plumbing except that which conforms with the applicable laws regulating the installation of such plumbing in effect now or at the time of installation and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.

Hazardous wiring: All wiring except that which conforms with the applicable laws regulating the installation of such wiring in effect now or at the time of the installation, and which has been maintained in good condition and is being used in a safe manner.

Housing inspector: The legally authorized Housing Inspector of the City or authorized representative.

Infestation: The presence of any insects, rodents, vermin, or other pests within a dwelling or on the dwelling premises.

Kitchen: A habitable room used or intended to be used for cooking or the preparation of meals.

License Actions: Deny – Withhold or refuse to grant a license
Revoke – Take back, withdraw, annul, or cancel the license
Suspend – Prohibit for a period of time, the privilege of the use of the license

Living room: A habitable room within a dwelling unit, which is used or intended to be used primarily for general living purposes.

Non-dwelling structure: Any structure, except a dwelling, used or intended to be used for the shelter or enclosure of any animal or property of any kind.

Occupant: Any person over one year of age, including an owner or operator, living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit, rooming unit or hotel unit.

Operator: Any person who has charge, care or control of a building, or part thereof, in which dwelling units, rooming units or hotel units are let.

Owner: The person who is the last owner of record or the fee owner or the contract purchaser or the agent of the aforementioned person.

Plumbing system: The plumbing system of a building includes the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the building drain and building sewer; the storm water drainage, with their devices and appurtenances; and connections within the building and outside the building within the property line.

Premises: A platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure.

Professional: Whenever the words "professional state of maintenance and repair" are used in this Code, they shall mean that such maintenance and repair shall be made in a reasonably skillful manner

Public Way. A street, alley, or other parcel of land open to the outside air leading to a street, that has been deeded, dedicated to or otherwise appropriated to the public for public use and which has a clear width and height of not less than 10 feet.

Recyclables or recyclable materials: Recyclables are former items of rubbish, which have been cleaned so as not to cause health or nuisance problems.

Recyclables shall include the following: paper, glass, plastic containers (with a neck), aluminum cans, metal cans, and other materials defined by agreement between the Hauler and City. Collection of recyclables shall be made at least twice a month. The Hauler shall be responsible for picking up and disposing of recyclable materials at an approved Recycling Center. Any of the above items which are not properly cleaned, prepared or stored such that they pose the threat of health, environmental or nuisance problems shall remain the responsibility and property of the individuals or household from which the materials originated.

Rehabilitation center: A "rehabilitation center" is one operated by a lawfully established and existing philanthropic or charitable organization or agency operating on a statewide or national basis and which employs personnel of demonstrated competency in the fields of social, spiritual and physical rehabilitation, and has and operates under its own charter, regulations, rules and standards. In order to qualify, such agency must furnish adequate proof of the soundness of its governing charter, regulations and code and of its prior successful existence and practice.

Rent or Rental Charge: Any consideration paid, either monetary, including payment of utilities (in all or in part), or “in lieu of payments” such as but not limited to maintenance or repair (cutting grass, shoveling snow, painting, etc.). A usually fixed periodical return made by the tenant or occupant for the possession and use thereof in whole or in part of the dwelling unit.

Exception: Rental license registration is not required for occupancy of dwelling units by immediate family members/relatives, defined as spouse, parent, child, brother, sister, grandparent, or grandchild.

Roomer: An occupant of a rooming house who is not a member of the family of the operator of that rooming house, and shall also mean an occupant of a dwelling unit who is not a member of the family occupying the dwelling unit. This shall not be construed as to include temporary nonpaying guests of the operator.

Rooming house: Any dwelling, or that part of any dwelling, containing one or more rooming units, with or without meals.

Rooming unit: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking of meals.

Rubbish: The term “rubbish” means and includes all inorganic refuse matter such as tin cans, glass, paper, ashes, sweepings, and similar substance.

Sanitary: The condition of being clean, free from infective, physically hurtful, diseased, poisonous, unwholesome, or otherwise unhealthful substances or influence and being completely free from rodents or arthropods, from the traces of either, and from an environment conducive to the growth of either.

Shared bath dwelling: A dwelling unit which does not contain a water closet and a hand lavatory and a bathtub or shower for the exclusive use of the occupants of the unit.

Solid Waste: Discarded materials other than fluids.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under floor space is more than six (6) feet above grade, as defined herein, for more than fifty (50) per cent of the total perimeter, or is more than twelve (12) feet above grade, as defined herein, at any point, such basement, cellar or unused under floor space shall be considered a story.

Story, first: The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty (50) per cent of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point.

Superficial floor area: Clear floor space, exclusive of fixed or built-in cabinets or appliances.

Supplied: Furnished, provided by, or under the control of, the owner, operator or agent.

Temporary housing: Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not permanently attached to the ground or to another structure.

Water closet: A toilet, with a bowl and trap made in one piece, which is connected to the city water and sewer system or other approved water supply and sewer system.

Wood-frame construction: As applied to dwelling shall mean that type of construction in which the load bearing portions of the exterior walls or a portion thereof are of wood.

(Amended Ord. 1320 – 2008, Ord. 1331 – 2009)

425.50 Meaning of Certain Words.

- (a) Whenever the words "dwelling," "dwelling units," "shared bath dwelling," "shared bath units," "rooming house," "rooming unit," or "premises" are used, they shall be construed as though they were followed by the words "or any part thereof."
- (b) Whenever the words "professional state of maintenance and repair" are used they shall mean that such maintenance and repair shall be made in a reasonably skillful manner.
- (c) Whenever the words "properly installed," "properly maintained," "properly connected" or "properly constructed" are used they shall mean in conformance with such ordinances of the city applicable now or at the time of such installation which governed such installations, maintenance connections or construction.

425.60 Temporary Housing Prohibited Exception.

- (a) Unless otherwise provided in this Section, no camp car, house trailer, automobile, tent, or other temporary structure may be parked or placed upon any public street or on any public or private premises or street in the city and used as a shelter or enclosure of persons and their effects for the purpose of living therein.
- (b) The Housing Inspector may issue a permit to allow for temporary housing when a specified emergency creates the need to allow for such housing. A permit may be issued only when the emergency creating the need is an act of nature, a technological failure or malfunction, a terrorist incident, a public health emergency, an industrial accident, a hazardous material accident, or destruction caused by a civil disturbance.
- (c) When the Housing Inspector issues a permit to allow for temporary housing, the Housing Inspector shall provide that the permit will expire after a specific period of time, not to exceed six (6) months. The Housing Inspector shall attempt to set the expiration date to coincide with the elimination of the need for temporary housing. The Housing Inspector may grant one (1) six-month extension of this permit.
- (d) The Housing Inspector may set conditions on the use of the permit to mitigate the negative impacts of the permit. These conditions may include compliance with applicable statutes, ordinances and/or rules, including but not limited to the Brainerd Fire Code, County Health Code, Brainerd Building Code, Brainerd Rental Housing Maintenance Code, and the Brainerd Zoning Ordinance. In addition, the Housing Inspector may impose any additional appropriate conditions to the use of the temporary housing permit.
- (e) The Housing Inspector may revoke the permit if the need for such temporary housing ends, or if the permit holder fails to comply with the conditions set by the Housing Inspector as to the use of the temporary housing permit.

425.70 Continuing Violations. Each day's continuance of any violation of the Rental Housing Maintenance Code after due notice has been served in accordance with the terms and provisions of Chapter 425 of the City Code of Ordinances shall be deemed a separate offense.

425.80 Enforcement by Suit. Refer to Minnesota Statute 504B. Landlord And Tenant, and the pamphlet entitled "Landlords And Tenants: Rights And Responsibilities" from the office of the Attorney General, regarding disputes between landlords and tenants.

425.90 Powers Declared Additional. The powers conferred on the Housing Inspector shall be in addition to the power already conferred upon said Housing Inspector and shall not be construed as in any way limiting these powers.

ARTICLE II. ENFORCEMENT

425.120 Officers Authorized. The Housing Inspector or authorized City representative shall enforce the provisions of the Rental Housing Maintenance Code.

425.130 Inspections Required; Powers. Pursuant to provisions of this Code of Ordinances, as set forth herein, the Housing Inspector shall make inspections to determine the condition of dwellings, dwelling units, shared bath dwellings, rooming units, and premises located within the City for the purpose of enforcing the provisions of the Rental Housing Maintenance Code. The Housing Inspector, or authorized representative, may enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises after obtaining consent from an occupant of the premises. In the event that an occupant of the premises does not consent to entry by the Housing Inspector or authorized representative, and if there is probable cause to believe that an inspection is warranted, then application may be made to the court for an administrative or other search warrant for the purpose of inspecting the premises. No person shall refuse entrance or impede an authorized City representative, in the performance of emergency duties. In case of emergency every such Housing Inspector or authorized City representative shall have the right to enter, examine and survey all premises, grounds, erections, structures, dwellings and buildings and every part thereof in the City at all times.

425.140 Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Rental Housing Maintenance Code is declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Code, which shall continue in full force and effect, and to this end the provisions of this Rental Housing Maintenance Code are hereby declared to be severable.

425.150 Notice of Violations. Whenever the County Health Department, the Housing Inspector, or authorized City representative determines that there has been a violation, or that there are reasonable grounds to believe that there has been a violation, of any provision of this Code, notice of such violation or alleged violation shall be given to the person or persons responsible therefore. Such notice shall:

- (a) Be in writing;
- (b) Include a description of the real estate sufficient for identification;
- (c) Specify the violation which exists and remedial action required;
- (d) Allow a reasonable time for the performance of any act it requires;
- (e) Be served upon the owner, or the operator, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner, or upon such operator, or upon such occupant if a copy thereof is served upon such owner, operator or occupant personally; or if a copy is left at such

owner's, operator's or occupant's usual place of residence with a person of suitable age and discretion; or by depositing in the United States Post Office, the notice addressed to such owner's, operator's or occupant's last-known address with postage prepaid thereon; or if service cannot be made by any one of the above means then such notice shall be deemed served if a copy of such notice is posted and kept posted for twenty-four (24) hours in a conspicuous place on the premises affected by such notice. Notwithstanding the other provisions of this section, a notice of violation shall not be required for violation of sections.

425.160 Emergency Orders. When, in the opinion of the Building Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official". It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

425.170 Warning Notice of Unsanitary Condition. The Housing Inspector or authorized City representative shall take note of any unsanitary conditions caused by accumulation of garbage, rubbish, or other debris upon any premises observed by them. A "warning notice" of such conditions shall be served upon the owner and occupant of the premises, either by mail or by leaving such notice in a conspicuous place on the premises. Such notice shall be on a form to be prepared by the Housing Inspector of the City and a record of all such notices served shall be transmitted to the Housing Inspector or authorized City representative for further inspection and enforcement of the provisions of the Rental Housing Maintenance Code. The service of any notice pursuant to this Section shall not in any way supersede or affect any other order, tag, or notice of violation duly issued or served pursuant to any other ordinance.

425.180 Enforcement by the City Attorney. The City Attorney may enforce any provisions of this Chapter, including any order to vacate condemned dwellings and apartments, by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(Added Ord. 1331 – 2009)

425.185 Violations. Any person who violates any of the provisions of this Ordinance will be guilty of a misdemeanor. Each violation of this Ordinance will constitute a separate offense. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Added Ord. 1331 – 2009)

ARTICLE III. EQUIPMENT AND FACILITIES

425.260 Compliance Required. No person shall occupy as owner-occupant or let or allow another to occupy any dwelling, dwelling unit, or other structure for the purpose of living, sleeping, cooking, or eating therein which does not comply with the requirements set forth in this article.

425.270 Liability for Utility Service Payments. This Section covered by State Statute 504B.

425.280 Tenant to be Given Copy of Lease.

425.285 Tenant to be Notified of Entry. These Sections covered by State Statute 504B.

425.290 Dwelling Plumbing Facilities Required. Every dwelling unit shall contain a kitchen sink, a water closet, a bathtub or shower, and hand lavatory all in good working condition, and properly connected to a water supply and sewage system. The water closet and shower or bathtub shall be located within a room that affords privacy to a person within said room. The hand lavatory shall be placed in the same room as the water closet, or if located in another room, shall be located in close proximity to the door leading directly into the room in which said water closet is located. Doors of bath or toilet rooms shared by persons other than members of a family, as defined in this Code, shall be provided with an approved locking device.

425.300 Shared Bath Dwelling Unit Plumbing Facilities Required. Every shared bath dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water supply and sewage disposal system and shall have available to its occupants a water closet, a hand lavatory, and a bathtub or shower. The occupants of not more than two (2) shared bath dwelling units may share a single water closet, a single hand lavatory and a single bathtub or shower if:

- (a) The number of occupants sharing a water closet, hand lavatory and bathtub or shower does not exceed four (4) persons.
- (b) Such water closet, hand lavatory, bathtub or shower shall be in good working condition and properly connected to a water and sewer system.

- (c) The room or rooms within which the water closet, hand lavatory, and bath are contained is located not more than one floor distant from the dwelling units whose occupants share the use of such facilities.

425.310 Basement Water Closet. A water closet may be located in a basement when required for a legal dwelling unit or shared bath unit within such basement. A water closet may be located in a basement when such water closet is supplementary to water closets required by the Rental Housing Maintenance Code. A first floor dwelling unit should not have to go to the basement for its required water closet.

425.320 Hot and Cold Water. Every kitchen sink, hand lavatory, and bathtub or shower shall be properly connected with both potable hot and cold running water and shall, with normal use, have an adequate supply of both hot and cold water.

425.330 Water Heating Facilities. Every dwelling shall have supplied water-heating facilities properly installed and maintained in a safe and good working condition and properly connected with the hot water lines required under the provisions of Section 425.320. An approved combination temperature and pressure valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. The discharge pipe shall be full size and run to within eighteen (18) inches from the floor or a safe place for disposal. The hot water heating facilities required by this section shall be of a capacity and so maintained and operated as to permit, with normal use, an adequate supply of water to be drawn at any required kitchen sink, hand lavatory, bathtub or shower and to maintain the temperature of said water at not less than one hundred twenty (120) degrees Fahrenheit at the fixture.

425.340 Sewer and Water Connections. All dwellings located on a lot or plot of ground adjacent to or abutting a street or alley in which such street or alley a City sanitary sewer and City water line exists shall have all the plumbing facilities properly connected in a non-hazardous manner to such sewer and water systems. If no City water or sewer system exists in the abutting or adjacent street or alley, then such water and sewer systems as the County Health Authority shall order must be installed.

425.350 Solid Waste Storage. Every dwelling unit, rooming unit, and shared bath unit shall be provided with an adequate number of containers to hold the solid waste accumulated by such units until said solid waste is removed from the premises. These containers shall be made of metal or approved plastic and be equipped with tight-fitting covers. An owner, operator, or agent utilizing private solid waste collection shall provide both the required solid waste containers and the removal service. Unobstructed walkways shall be maintained to the required solid waste containers. Such walkways shall lead from the public way and shall also be accessible to and usable by the occupants of the dwelling for which the containers are provided. Snow, whether natural, piled or accumulated, to a depth greater than six (6) inches shall be deemed to constitute an obstruction if not removed within a twenty four-hour time period after snow has ceased to fall.

When in the opinion of the Housing Inspector it has proven necessary to protect the health, safety, and welfare of the public, the Housing Inspector may require owners of dwellings at specific addresses to provide large dumpster-type solid waste containers. Said dumpster-type containers must be rodent-proof, well maintained, bear identification of the solid waste hauler supplying the containers, including the phone number, and be provided with metal or approved plastic covers that the tenants can operate with no unusual physical effort. The solid waste haulers providing the dumpster service must provide collection service at least once every week and the dumpster or dumpsters shall be of sufficient size to handle the accumulation of solid waste between pickup periods from the address where the dumpster-type container is required. Large dumpster-type solid waste containers shall be required after conditions at a specific address have resulted in the issuance of two (2) written orders for overflowing solid waste within any twelve-month period.

When dumpster type containers are used as the solid waste containers on a regular basis, they shall be screened from the view of the street public right-of-way. Where screening is required, such screening shall be six (6) feet in height and at least ninety-five (95) percent opaque throughout the year, unless otherwise specified.

ARTICLE IV. LIGHT, VENTILATION, AND HEATING

425.410 Light and Ventilation. Habitable rooms shall be provided with natural light by means of windows or skylights with a glazed area of not less than eight (8) percent of the floor area of such rooms with a minimum of eight (8) square feet. All bathrooms, water closet compartments, and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area of not less than one-twentieth ($1/20$) of the floor area of such rooms with a minimum of one and one-half ($1\ 1/2$) square feet. Not less than one-half ($1/2$) of the required window or skylight area shall be openable to provide natural ventilation. Exceptions to the requirements for windows are:

- (a) The glazed areas need not be openable where the opening is not required by this Section and an approved mechanical ventilation system capable of producing 0.35 air change per hour in the room is installed or a whole-house mechanical ventilation system is installed capable of supplying outdoor ventilation air of 15 cubic feet per minute (cfm) per occupant computed on the basis of two occupants for the first bedroom and one occupant for each additional bedroom.
- (b) The glazed areas need not be installed in rooms where Exception 1 above is satisfied and artificial light is provided capable of producing an average illumination of 6 foot-candles) over the area of the room at a height of 30 inches above the floor level.

Windows shall not be required in kitchens of dwelling units when such kitchen has an opening of at least twenty (20) square feet into an adjoining habitable room and when such kitchen is

provided with an approved mechanical ventilation system. In addition, the window area of the adjoining habitable room referred to above shall be of sufficient size so as to provide for the light and ventilation requirements of the kitchen area as well as for said adjoining habitable room.

425.411 Emergency Escape and Rescue Required. Basements with habitable space and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Due to various differences regarding measurements and clearances, refer to the Minnesota State Department of Public Safety, State Fire Marshal Division SFMD Fact Sheet INS-FACT-16 (for structures with more than two dwellings), and to SFMD Fact Sheet INS-FACT-02 (for one and two family dwellings), for this subject, as well as any other emergency egress openings measurements, window wells, bulkhead enclosures, stairways, handrails, railings. These fact sheets are available at www.dps.state.mn.us/fmarshal/FireCode/FireCode.html under the Fact/Information Sheets or at Brainerd City Hall.

425.420 Electric Outlets and Fixtures. In all existing dwellings now or hereafter supplied with electric service, every habitable room with one hundred twenty (120) square feet of floor space or less shall be provided with two (2) separate floor or wall type duplex electric convenience outlets, and an additional duplex electric convenience outlet shall be required for each additional eighty (80) square feet, or fraction thereof, of floor space. Required outlets shall, insofar as possible, be spaced equal distances apart. Kitchens and rooms with kitchen areas shall have one duplex electric convenience outlet in addition to the number herein required for other habitable rooms. One ceiling-type electric light fixture or one wall-type electric light fixture controlled by a remote switch may be supplied in lieu of one required electric convenience outlet in each habitable room. Every public hall, water closet compartment, bathroom, laundry room and furnace room shall contain at least one supplied electric light fixture. All general use cellar or basement areas shall be provided with sufficient artificial light so as to provide one foot-candle of light at all floor areas. All electric outlets and fixtures shall be installed, maintained and energized by a source of electric power in a manner complying with the State Electrical Code applicable now or at the time such outlets or fixtures were or are installed. The electric service and all wiring shall be maintained in good condition and used in a safe manner. All hazardous wiring and all disconnected, exposed wiring shall be removed. Any and all substandard work shall be repaired to present day State Electrical Code requirements.

425.430 Heating Facilities. The owner of every building containing habitable rooms shall provide heating facilities and shall be required to see that said heating facilities are properly installed, safely maintained, and in good working condition, and that said facilities are capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms located therein to a temperature of at least sixty-eight (68) degrees Fahrenheit, measured at a distance of thirty-six (36) inches above floor level, and not closer than thirty-six (36) inches from any wall at all times when the outside temperature is at minus twenty (-20) degrees Fahrenheit. The owner or operator shall furnish heat to the occupants thereof whenever the outside temperature is sixty-(60) degrees Fahrenheit or below for any continuous twenty-four-hour period. Cooking appliances shall not be used to heat any dwelling unit.

425.440 Exit Illumination. The means of egress, including the exit discharge, shall be illuminated at all times the building space served by the means of egress is occupied. Exit illumination is not required inside individual dwelling units. The means of egress illumination shall not be less than one-foot candle at the floor level. Every exterior stairway shall be adequately illuminated at floors, landings and treads.

425.450 Screens. Openable windows in each habitable room shall be supplied with a screen. Such screens shall have a mesh of not less than number fourteen (14). Other such screening may be required by the Housing Inspector when deemed necessary for insect control or safety of persons.

ARTICLE V. MAINTENANCE BY OWNER

425.490 Compliance Required. No person shall occupy any building or other structure or portion thereof, which does not comply with the requirements set forth in this article.

425.500 Foundations, Roofs, Exterior Walls, and Surfaces.

- (a) All exterior surfaces shall be of a material manufactured or processed specifically for use in such a weather-exposed location, including redwood and other naturally suitable materials, and every exterior wall, chimney, foundation and roof shall be reasonably weather tight, watertight and rodent proof; and shall be kept in a professional state of maintenance and repair. Exterior walls shall be maintained and kept free from dilapidation by cracks, tears or breaks or from deteriorated plaster, stucco, brick, wood or other material that is extensive and gives evidence of long neglect.
- (b) The protective surface on exterior walls of a building above ground level shall be maintained in good repair so as to provide a sufficient covering and protection of the structural surface underneath against its deterioration. Without limiting the generality of this section, a protective surface of a building shall be deemed to be out of repair if:
 - (1) The protective surface has paint which is blistered, cracked, flaked, scaled or chalked away including window trim, cornice members, porch railings and other such areas.
 - (2) The pointing of any chimney or the pointing of any brick or stone wall is loose or has fallen out.
- (c) Any exterior surface or plane required to be repaired under the provisions of this section shall be repaired in its entirety.

425.510 Pest Extermination. Every owner of a dwelling shall be responsible for the extermination of insects, rodents, vermin or other pests on the premises. The Housing Inspector may order the extermination done by a person licensed to do such work when in the housing inspector's opinion the infestation is widespread and severe.

425.515 Other Pests Constituting Nuisance. Whenever it shall appear to the Housing Inspector that rats, skunks, snakes, starlings, grackles, common wild pigeons, or bats which are creating an offensive, nauseous, hurtful, dangerous, unhealthful, or uncomfortable condition to or for any person or persons or to the neighborhood, said Housing Inspector is authorized to decree such conditions a public nuisance and said Housing Inspector or an authorized representative shall issue a written notice to the owner or person in charge of or in control of the premises to remove, exterminate or otherwise rid the premises of the cause of such public nuisance within a reasonable period of time. Where the owner of the premises or the person in charge or control thereof cannot be found after due diligence, the written notice referred to in this section may be posted upon the premises with the same force and effect as though served upon the owner.

425.520 Interior.

- (a) Every interior partition, wall, floor, door, window, trim surface, radiator, and ceiling shall be kept in a professional state of repair. Interior partitions, walls and ceilings shall be provided with an interior finish material specifically manufactured for, and intended to be used as an interior finished surface. Walls, floors, and ceilings that are required to be fire rated by new construction regulations shall be maintained and repaired to prevent a lowering of the resistance to fire or the spread of fire. In addition, maintenance and repairs to walls, floors and ceilings separating dwelling units, or dwelling units from public corridors or stairways shall be done in a manner which will not reduce the sound transmission class of such walls, floors, or ceilings. Dwelling unit doors leading to communal, shared, or public areas, when replaced, shall be replaced with an approved solid core door not less than one and three-eighths (1 3/8) inches in thickness. For the purposes of this Section, professional state of repair shall apply to the repair and application of interior finishes. Interior finishes shall meet the flame spread classification set forth in Chapter 8 of the State Building Code as adopted in Section 400 of the Code of Ordinances when such interior finishes are hereafter altered, refinished, repaired or replaced.
- (b) No interior wall of any dwelling or building accessory thereto shall have paint that is blistered, cracked, flaked, scaled or chalked away.

425.525 Rainwater Drainage. All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings, or floors of any portion of the dwelling or of any adjacent building or structure. Gutters and downspouts, if provided, shall be kept in a professional state of repair and in compliance with the provisions of Section 425.500.

425.530 Windows, Exterior Doors, Hatchways. Every window, exterior door, and basement hatchway shall be reasonably weather tight, watertight, and rodent proof; and shall be kept in a professional state of maintenance and repair. Every exterior window or door of habitable rooms, bath, and toilet rooms shall be supplied with a storm window or storm door or the equivalent for ventilation, light, and insulation. Unless otherwise provided for by written agreement, the owner or operator shall install such storm windows and storm doors not later than November first of each year. Such written agreements shall be applicable only to one- and two-family dwellings. All exterior doors of dwellings, except those, which are required to be out swinging based on occupant load, shall be provided with a storm door unless the principal door has an "R" value of two (2) or more. The following energy conservation measures are required:

- (a) Install weather-stripping between exterior operable window sash and frames and between exterior doors and frames. Exception: Weather-stripping not required on storm doors or storm windows.
- (b) Caulk, gasket or otherwise seal exterior joints between foundation and rim joist, around window and door frames, between wall and roof, between wall panels, at penetrations for utility services through walls, floors, and roofs and all other openings in the exterior envelope.

425.540 Shades, Drapes. Every window of every room let to another for sleeping purposes and the windows of bath and toilet rooms used in conjunction with such sleeping rooms shall be supplied with shades, draw drapes, or other devices or materials which when properly used will afford privacy to the occupant of the room. However, upon written agreement of the owner and the occupant, said shades, drapes or devices need not be provided.

425.550 Stairways and Porches.

- (a) Construction and maintenance generally live load. Every inside or outside stairways attached to a dwelling, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in a professional state of maintenance and repair. Normal use live load shall be the uniform load as set out in the state building code, one hundred (100) pounds per square foot.
- (b) Handrails. Every inside or outside stairways attached to a dwelling that have four (4) or more risers shall have at least one handrail, and all such stairways which are forty-four (44) inches or more in width, or which are open on both sides, shall have a handrail on each side. If a stairway is open on one side, the required handrail shall be placed on the open side, when required by the housing inspector. Stairways required to be more than eighty-eight (88) inches in width shall be provided with an intermediate handrail. However, only one handrail shall be required when such an outside stairway serves a

one- or two-family dwelling and the stairway is not more than forty-two (42) inches above the adjacent surface. All handrails shall be not less than thirty (30) inches or more than forty-two (42) inches vertically above the nose of the stair treads or stairway platforms.

(Amended Ord. 1331 – 2009)

- (c) To be kept clean of snow, etc. Required means of egress that are exposed to the elements shall be kept clear at all times of rubbish, snow, ice, or other obstructions when such egress serves a multiple dwelling.

425.555 Guardrails. All accessible doorways, unenclosed floor and roof openings, open stairs, porches, balconies, walkways and landings which are more than thirty (30) inches above grade or the surface below shall be protected by an approved guardrail. New installations or replacements of guardrails shall be in compliance with the state building code.

425.560 Plumbing Fixtures. Every supplied plumbing fixture and all water and waste pipes shall be installed in a non-hazardous manner and maintained free from defects, leaks, or obstructions. Water closets shall be provided with seats, which can be maintained in a sanitary condition.

425.570 Bathroom and Toilet Floors. Every toilet room floor and bathroom floor shall be so constructed and maintained as to be reasonably impervious to moisture and all such floor and floor coverings shall be kept in a clean and sanitary condition.

425.580 Supplied Facilities. Every supplied facility, piece of equipment, or utility which is required under the rental property maintenance code shall be so constructed and installed that it will function safely and effectively, and shall be kept in a professional state of maintenance and repair. Appliances used for cooking, air conditioning, laundry, dishwashing, or refrigeration, when supplied by the lessor, shall be installed and maintained so they will function safely and effectively.

(Amended Ord. 1320 – 2008)

425.590 Discontinuance of Required Services. Refer to State Statute 504B.

425.620 Vacant Dwelling Units. No owner shall occupy or permit any other person to occupy any vacant dwelling unit or rooming unit unless it is clean, sanitary, and complies with all provisions of the Rental Housing Maintenance Code. The owner of any dwelling shall be responsible for the removal of all garbage, rubbish, and other discarded debris left on the premises where the dwelling unit is vacant.

425.630 Hanging of Screens. Every owner of a dwelling let to another shall be responsible for hanging all screens whenever the same are required under the provisions of this Code. Screens shall be hung not later than the first day of May of each year. This provision shall not preclude the owner and tenant from agreeing by written contract to have said tenant hang the screens as required above for other than multiple dwellings. Nothing in this Section shall be construed to prevent the owner from engaging a tenant, caretaker, or any person from hanging the screens for remuneration.

425.640 Prohibited Uses. No person shall use or permit the use of any dwelling or any building or any lot or premises for any use not permitted by said Zoning Ordinance.

425.650 Numbering Units. All habitable units let to another in a multiple dwelling shall be numbered or lettered in an approved and conspicuous manner on each passage door leading from such unit. All passage doors from each unit shall have the same number or letter and no two (2) units shall bear the same number or letter. Cross reference Numbering of buildings, Section 425.970.

425.655 Mailboxes. Every owner shall provide a suitable mail deposit box for each rental unit. Such mail deposit box shall be approved by the United States Postal Service.

425.660 Changing or Altering Locks. No person shall change or alter any keyed lock, or place such a new lock on the entrance of a dwelling unit without first providing the tenant or owner of that dwelling unit with a suitable functional key to operate such a lock. A tenant shall obtain permission of the owner, in writing, before installing permanent locks.

425.670 Doorbells or Buzzers. Every multiple dwelling of eleven (11) or more dwelling units or eleven (11) or more rooming units shall be equipped with an operable system of bells, buzzers or other signaling devices which operate from the exterior of a locked entryway and signal either within each dwelling unit and rooming unit or in the hallway or common area of each floor of the building.

425.675 Secured Egress and Ingress to be Provided for Certain Multiple Dwellings. All multiple dwellings containing eleven (11) or more dwelling units or eleven (11) or more rooming units existing now or hereafter created shall provide the following security measures: all doorways leading to the exterior or to an exterior vestibule or entry must be secured by a locking device approved by the Housing Inspector. The locking devices provided for required egress doorways shall be of a type that will engage and lock automatically when the door is in the closed position within the frame provided. Further, locks on such required egress doors shall be openable from the exterior by the use of a key or other approved device. A key box of a type approved by the Brainerd Fire Department shall be installed for access by Public Safety agencies of the City of Brainerd, namely, the Fire Department and Police Department. All locking common entry/egress doors on buildings with fewer than 11 units shall meet the key box requirement of this ordinance. All doors, whether required egress doors or auxiliary, shall be openable from the inside without the use of a key or any special knowledge or effort. All

locking devices required by this section shall be kept in a professional state of maintenance and repair.

(Amended Ord. 1320 – 2008)

ARTICLE VI. MAINTENANCE BY OCCUPANTS

425.690 Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling unit, and premises thereof, which that person occupies or controls.

425.695 Residential Storage Standards. This Section applies to any dwelling as well as appurtenant porches, decks, and stairways whether or not enclosed and to garages which are an accessory use to the dwelling. Storage standards. With the exceptions noted herein; other than furniture, all wood products, paper and paper products, clothing, bedding, towels, linens, tablecloths, drapes, area rugs, maintenance supplies, and additionally, all materials of any kind which are flammable or which may be subject to infestation by rodents or arthropods or other pests, shall when not in actual use, at a minimum and in addition to all other requirements imposed by law, meet each of the following storage standards:

- (a) All materials must be stored off the floor in shelves, cabinets, or other sturdy storage device not made of paper or paper products.
- (b) Storage of materials shall not impede free access to all walls, windows, doors, and heating and other fixtures.
- (c) Each shelf, cabinet, or other sturdy storage device other than built-in storage devices shall have such free space around it so access without moving the material can be obtained and a visual inspection made for combustibility, rodents, arthropods and other pests, and other health and safety hazards.

425.700 Disposal of Solid Waste. Every occupant of a dwelling or dwelling unit shall dispose of all solid waste in a clean and sanitary manner by placing it in the containers required by Section 425.350 of this Code. Occupants shall place their solid waste only in containers that have been assigned to their dwelling or dwelling units by a private solid waste hauler contracted to provide collection service to a building. Failure to comply with this requirement shall constitute a violation of this Section. Prior to placement in the containers required by Section 425.350, solid waste may be stored within the dwelling, but only temporarily. It shall be stored in sturdy baskets or containers which are not made of paper or paper products and which will be consistent with the other requirements of City ordinances. The amount of solid waste temporarily stored shall not exceed three (3) cubic feet of volume in any one room. In order to be counted as a separate room for the purposes of this Section, the enclosed area involved must be able to be closed off completely from other rooms of the dwelling. The term "temporarily" as used in this Section means for a period not to exceed nine (9) calendar days.

425.720 Use of Storm Windows and Operation of Mechanical System Controls. Every occupant of a dwelling supplied with storm windows and doors shall use the storm windows and doors provided in a reasonable and energy-saving manner. This shall include the proper utilization of combination storms supplied by the owner during the periods of time when it is necessary to heat the dwelling unit. Every occupant shall also operate all mechanical system controls intended to be operated by the occupant in a reasonable and energy efficient manner. The occupant shall not adjust mechanical system controls not intended to be operated by the occupant, nor take any actions that impair the operation of the mechanical systems.

425.740 Supplied Plumbing Fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

425.750 Plumbing Fixtures or Appliances Furnished by Occupant. Every plumbing fixture or appliance furnished by the occupant shall be properly installed and shall be maintained in good working condition, shall be clean and sanitary, and free from defects, leaks or obstructions.

425.760 Damaging Property. No person shall willfully or wantonly damage, mutilate or deface any part of residential real estate, supplied fixtures, equipment, including smoke detectors, furnishings or any other property of another.

ARTICLE VII. SPACE, USE, AND LOCATION

425.790 Compliance Required. No person shall occupy or let or allow another to occupy any building or other structure for the purpose of living therein which does not comply with the requirements set forth in this article.

425.800 Ceiling Height. At least one-half of the floor area of every habitable room shall have a ceiling height of seven (7) feet. However, in dwellings one story and attic in height, attic type bedrooms may be located above the first floor of each dwelling unit if such attic type bedrooms have a minimum ceiling height of not less than seven (7) feet over fifty (50) per cent of its floor area and shall be provided with a stairway in full compliance with the Building Code. The floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

Exception: Habitable rooms existing at the time of adoption of this Code having a ceiling height of not less than 6 feet 8 inches (2033mm) with not less than 6 feet 4 inches (1932mm) of clear height under beams, girders, ducts and similar obstructions.

425.810 Required Space in Dwelling Units. Every dwelling unit shall contain a minimum superficial floor area of not less than one hundred fifty (150) square feet for the first occupant, seventy (70) additional square feet for the second occupant and one hundred (100) square feet for each additional occupant in excess of two (2). The floor area shall be calculated on the basis of

the total habitable floor area of all habitable rooms. Single room dwelling units shall not be occupied by more than four (4) persons. Rooms used exclusively for sleeping purposes shall have the following minimum superficial floor area, seventy (70) square feet for one person, ninety (90) square feet for two (2) persons and the required superficial floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2). However, occupancy of a sleeping room shall not exceed four (4) persons. Habitable rooms having a multiple use shall have not less than one hundred fifty (150) square feet of superficial floor area. Other habitable rooms shall have not less than seventy (70) square feet of superficial floor area, except kitchens. No habitable room other than a kitchen shall be less than seven (7) feet in any dimension. Multi-roomed dwelling units, when let to another, shall include a kitchen room. The floor area of such required kitchen room is not to be included when calculating floor area for the purposes of determining occupant load.

425.820 Dwelling Unit to be Occupied by One Family. No dwelling unit shall be occupied by more than one family. However, unrelated persons may occupy a dwelling unit when such occupancy is permitted and authorized. When, in the opinion of the Housing Inspector, it is necessary for the protection of the health, safety, and welfare of the occupants, the owner or agent of dwelling units let to another may be required to post in a conspicuous place, with a transparent cover, a card issued by the Housing Inspector setting forth the maximum number of persons who may lawfully occupy such a dwelling unit. Said card shall be posted inside the dwelling unit at eye level on, or within four (4) feet of, the main entrance door.

425.830 Arrangement of Rooms. No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangements that access to a bathroom or toilet room intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or toilet room.

425.850 Basement Space May be Habitable. No basement space shall be used as a habitable room or dwelling unit unless:

- (a) The floor and walls are impervious to leakage of underground and surface runoff water.
- (b) The total window area in each room is equal to at least the minimum window area sizes as required in Section 425.410.
- (c) The total openable window area or mechanical ventilation in each room is equal to at least the minimum s required under Section 425.410.
- (d) At least one emergency escape and rescue opening is provided. Every sleeping room shall have at least one openable emergency escape and rescue opening as required in Section 411.

Cross Reference: Emergency escapes and rescue openings, Section 425.411

ARTICLE VIII. FIRE PROTECTION

425.890 Compliance Required. No person shall let to another for occupancy any dwelling, dwelling unit, rooming house, rooming unit, lodging house, or lodging unit which does not comply with the applicable fire prevention provisions of this Code and the following additional standards for safety from fire.

425.900 Open Fires. No person shall set or maintain any open fire, or knowingly furnish the materials for any such fire, or authorize any such fire to be set, kindled or maintained on or in any street, alley, lot, land or public or private grounds within the City, except as permitted by the provisions of the Rules for Recreational Fires as set forth by the Brainerd Fire Department.

425.910 Vacant Dwellings. The owner of any dwelling in the City, whenever the same becomes vacant or unoccupied shall remove there from, all papers or other combustible waste materials accumulated therein, and shall securely close and keep closed all doors, windows or other openings into such building while the same remains unoccupied.

425.915 Fire Warning System. Due to the various differences regarding measurements, clearances, and build dates, refer to the Minnesota State Department of Public Safety, State Fire Marshal Division SFMD Fact Sheet INS-FACT-16 (for structures with more than two dwellings), and to SFMD Fact Sheet INS-FACT-02 (for one and two family dwellings), for this subject, as well as any other fire safety topics in this section. The INS-FACT-16 (multiple units) also deals with additional exits and fire extinguishers. These fact sheets are available at www.dps.state.mn.us/fmarshal/FireCode/FireCode.html under the Fact/Information Sheets or at the Brainerd City Hall. Smoke alarms and smoke detectors shall not be located closer than three (3) feet from any door to a bathroom or kitchen. Smoke alarms and smoke detectors that are located within twenty (20) feet of a cooking appliance shall be equipped with a silencing switch or be of the photoelectric type in accordance with National Fire Protection Association Standard 72, Section 8-1.4.2.

When interior alterations, repairs, or additions requiring a permit occur, or when one (1) or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be provided with smoke alarms located as required for new dwellings; the smoke alarms shall be interconnected and hard wired. Exception: smoke alarms in existing areas shall not be required to be interconnected and hard wired where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure.

425.920 Fire Extinguishers. Refer to 425.915. Tampering with or removal. No person shall tamper with, meddle with, remove, empty, damage, or destroy any extinguisher except in the event of fire or authorized inspection. In dwellings of two or less dwelling units, fire extinguishers shall be provided inside each unit. The minimum size and classification shall be 2A10BC. A tag with the name of the servicing company and the service date, or a tag with the date placing the extinguisher in service, shall be affixed to the extinguisher and shall remain affixed until the next servicing.

(Amended Ord. 1320 – 2008, Ord. 1331 - 2009)

425.930 Flammable Liquids. Flammable liquids shall not be stored in any rooming house, lodging house, or any dwelling in quantities exceeding one gallon.

- (a) All such flammable liquids of one gallon or less shall be stored in sealed metal containers or safety cans not exceeding one gallon capacity and only one such container shall be allowed in each unit, as set out herein. Non-water based paints, varnishes, and similar products used for decorating therein shall be stored in sealed metal containers.
- (b) No flammable liquids such as gasoline, diesel fuel, motor oils, or any similar product shall be stored inside a dwelling unit.
- (c) Fueled equipment, including but not limited to motorcycles, mopeds, lawn care equipment and portable cooking equipment, shall not be stored, operated or repaired within a dwelling unit.
- (d) In any structure containing three or more dwelling units, no person shall kindle, maintain, or cause any open fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of a structure.
- (e) No person shall store or use any fuel, barbeque, torch, or other similar heating or lighting chemical or device in the locations designated in 425.930 (d) above.

Exception: Listed electric or gas-fired barbeque grills that are permanently mounted and wired or plumbed to the building's gas supply or electrical system and that maintain a minimum clearance of 18 inches on all sides, unless listed for lesser clearances, may be installed on balconies and patios when approved by the Fire Chief.

425.940 Attic Rooms. In dwellings erected prior to July 1, 1972, dwelling units and rooming units may be located in the attic of a dwelling that is not more than two (2) stories and attic in height, provided that the following conditions are complied with:

- (a) The attic shall have a habitable floor area exceeding fifty (50) percent of the floor below.
- (b) The required egress stairways shall be located inside the confines of the dwelling and shall be enclosed with materials having a one-hour fire-resistant rating and self-closing fire doors separating each floor. The one-hour fire-resistant rating for materials enclosing said egress stairway shall be as specified in "Methods of Fire Tests of Building Construction and Materials" (ASTM Designation: E119) of the American Society for Testing and Materials, on file in the office of the housing inspector. The required self-closing fire doors shall be constructed of Type B construction.

- (c) At least one-half of the floor area of every habitable room shall have a ceiling height of seven (7) feet.
- (d) There shall be compliance with all the provisions of the Zoning Ordinance and all other provisions of the Rental Housing Maintenance Code.

425.945 Restricted Attic Use. The use of the attic in a two-story and attic dwelling shall be confined strictly to the use of the family or families occupying the first and/or second floors of such dwellings. Such attics shall not be occupied by more than three (3) persons.

425.950 Heating Plants. In all multiple dwellings over two (2) stories and basement in height or containing more than four (4) dwelling units on any floor above the first floor or containing more than ten (10) sleeping rooms on any floor above the first floor of such building, the heating plant shall be separated from the rest of the building by not less than a one-hour fire-resistive occupancy separation as defined in the building code or in lieu thereof a sprinkler system approved by the Fire Chief.

425.955 Carbon Monoxide Alarm.

- (a) An approved carbon monoxide alarm shall be provided as follows:
 - (1) For all newly constructed single-family and multifamily dwelling units for which building permit were issued on or after January 1, 2007.
 - (2) For all existing single-family dwelling units on or before August 1, 2008.
 - (3) For all multifamily dwelling units on or before August 1, 2009.
- (b) Approved carbon monoxide alarm means a device meant for the purpose of detecting carbon monoxide that is certified by a nationally recognized testing laboratory to conform to the latest Underwriters Laboratories Standards (known as UL2034 standards)

Exceptions: In certain multifamily dwellings.

- (a) Multifamily dwellings may have approved and operational carbon monoxide alarms installed between 15 and 25 feet of carbon monoxide producing central fixtures and equipment provided there is a centralized alarm system or other mechanism for responsible parties to hear the alarm at all times.
- (b) An owner of a multifamily dwelling that contains minimal or no sources of carbon monoxide may be exempted from the requirements of the statute provided that such owner certifies to the commissioner of public safety that such multifamily dwelling poses no foreseeable carbon monoxide risk to the health and safety of the dwelling units.

(c) Reference: Minnesota Statute 299F.50

425.960 Egress. Dwellings erected after July 1, 1972, shall have and shall maintain the egress facilities required by the Minnesota State Building Code at the time of erection. Dwellings existing prior to July 1, 1972, shall be provided with egress facilities as required by said Minnesota State Building Code or in compliance with the following regulations: Every habitable unit shall have a safe unobstructed means of egress. Every dwelling unit located above the first floor and every rooming house where three (3) or more roomers occupy one or more rooming units located above the first floor and every basement dwelling unit shall have at least two (2) independent egress stairways which shall be located remote from each other, and one of such stairways shall be an inside stairway. Every such egress shall comply with the following requirements:

- (a) Every dwelling with an occupant load of ten (10) persons or fewer shall have one approved means of egress. Dwellings located on the second story shall have at least one approved means of egress if the occupant load of the entire story does not exceed ten (10) persons. Second stories having an occupant load of more than ten (10) persons and all other stories and basements shall have not less than two (2) approved means of egress. Exception: Only one approved means of egress shall be required from a basement within an individual dwelling unit when the occupancy load of such basement is ten (10) or fewer.
- (b) Refer to the fact sheets listed in 425.915 for more information on measurements, placements, build dates, etc., for stairways, handrails, and guardrails.
- (c) All required egress stairs shall be easily accessible from every dwelling or dwelling unit without passing through any room other than public, shared or communal areas. Egress shall lead directly to grade, and such grade shall have an unobstructed path of travel to a public way.
- (d) Egress doors connected to public, shared or communal areas must be easily opened from the inside along the path of egress and remain unlocked or be of a type which can be unlocked without the use of a key or any special skill or knowledge. Where multiple dwellings have more than five (5) dwelling units, or more than ten (10) rooming units sharing the same means of egress, the doors serving such egress shall swing in the direction of travel and be self-closing and latching. All stair tower doors located in multiple dwellings which are four (4) or more stories in height, and where the dwelling units are not individually owned, shall be openable from the inside of the stair tower without the use of a key or any special skill or knowledge when such stair tower doors open into a public, shared or communal area. No person shall lock, fasten closed, block open or in any other way tamper with the operation of self-closing fire doors so that said doors do not function as required by this section.

- (e) Any required means of egress exposed to the elements shall be kept clear of rubbish, snow, ice and other such obstructions at all times. All vertical ladders and other emergency fire escapes not recognized as a required means of egress shall be maintained in good order and repair.

425.970 Address Posting. Every dwelling shall have the proper street address number conspicuously posted in the front and in the rear or on a building accessory to such dwelling at the rear so as to be readily identified in case of fire or other emergency. The rear address number may be omitted if there is no public way at the rear of the building. The numbers required by this section shall be mounted on a permanently fixed surface, the numbers shall be Arabic, not Roman numerals or words, and shall be of sufficient size four (4) inches minimum height and of a contrasting color so as to be readily distinguishable and readable from the public way front and rear.

Cross Reference: Numbering of Units, Section 425.650

425.980 Ventilation Shafts. No ventilation shafts or ducts shall exhaust or terminate within a building. All such shafts or ducts shall lead to the outside.

425.990 Transom Windows. Openings such as transom windows shall not be permitted into public hallways. Existing transoms shall be permanently fixed in the closed position and all such openings shall be enclosed with materials having a fire-resistance rating of one hour or equal to that of the walls adjoining such transoms or openings.

425.1000 Storage Near heating plant. No person shall store or permit the storage of any combustible material, other than fuel used in conjunction with the heating system, within three (3) feet of any heating plant or furnace.

425.1010 Exit Signs. All exits in multiple dwellings having ten (10) or more dwelling units on any one floor, or in rooming houses having more than five (5) rooming units on any one floor, or in any multiple dwellings having a total of ten (10) or more of any combination of the aforesaid dwelling units and rooming units on a floor shall be marked with red, internally illuminated exit signs that will be clearly visible from hallways, corridors and public areas. Where exit signs are not visible there shall be illuminated directional markers indicating the location and direction to follow to reach such exits. Such internally illuminated signs shall be marked "EXIT" in letters at least four (4) inches high. Exit signs provided in accordance with the Building Code when properly maintained shall also be acceptable.

425.1020 Minimum Requirements. These requirements are considered to be minimum and not maximum. The City of Brainerd has adopted the Minnesota State Fire Code. All properties subject to this Ordinance are subject to the Minnesota State Fire Code as adopted and amended by the City of Brainerd and shall in the case of discrepancy supercede this Ordinance.

ARTICLE IX. ROOMING HOUSES

425.1040 Compliance Required. No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the requirements set forth in the Rental Housing Maintenance Code.

425.1050 Lavatory and Bath Facilities. At least one water closet, hand lavatory and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each ten (10) persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities; provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets, and provided further that in rooming houses existing prior to July 1, 1972, where a hand lavatory, connected to a water and sewer system and in good working condition, is supplied in each rooming unit, then the number of persons who shall share the use of a water closet and bathtub or shower shall not exceed twelve (12) persons. All such facilities shall be so located within the rooming house as to be accessible to the occupants of each rooming unit sharing such facilities without going through a unit of another occupant. Every hand lavatory and bathtub or shower required under the provisions of this section shall be supplied with hot and cold running water at all times. No plumbing facilities required under this section except the guest toilet room may be located in a cellar. No such plumbing facilities shall be located more than one floor distant from the rooming unit for which such plumbing facilities are provided.

General toilet rooms may be provided to serve members of one sex but not to exceed twenty-four (24) persons. Water closet compartments and bath or shower compartments in general toilet rooms shall be constructed in such a manner so as to afford the user privacy. General toilet rooms shall have an approved mechanical ventilation system. Rooming houses having only general toilet rooms for the tenants all of one sex shall have a toilet room containing a water closet and hand lavatory for guest use.

425.1060 Communal Kitchens. Communal kitchens shall be permitted only in rooming house occupancies. Every rooming house within which the occupants of rooming units are permitted to prepare meals shall contain a communal kitchen that has adequate cooking, refrigeration and plumbing facilities to allow the preparation of meals in a clean and healthful manner by the occupants. Every communal kitchen shall be located within a room accessible to the occupant of each rooming unit sharing the use of such kitchens, without going outside the rooming house and without going through a unit of another occupant. The owner or operator of a rooming house wherein meals are served to tenants shall obtain a food and drink license as required by the Minnesota State Health Department.

425.1070 No-Cooking Signs. The operator shall post in every rooming unit a sign on which shall be written or printed in letters not less than one inch in height the following words "No Cooking Permitted in This Room" and such sign shall remain so posted at all times. No person shall cook or prepare meals in any rooming unit, and no operator knowingly shall allow cooking or preparation of meals in any rooming unit.

425.1090 Sanitary Maintenance. The owner or operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

425.1100 Reporting of Communicable Disease. The operator of a rooming house shall report to the County Health Authority within twenty-four (24) hours the name of any person living in the rooming house who is suffering from a communicable disease, and such report shall be made whenever there is reason to believe or suspect that any person in such rooming house may be afflicted with any communicable disease.

425.1110 Keeping of Register. Every person registered as a rooming house operator shall at all times keep a register within the rooming house, in which shall be written the names of all occupants renting or occupying rooming units in such rooming house. After the name or names of persons renting or occupying any rooming unit the operator, or operator's agent, shall write the number of the room or rooms which each person is to occupy, together with the date and hour when such room or rooms are rented, all of which shall be done before such person is permitted to occupy such room or rooms. The register shall be at all times open to inspection by the Chief of Police, County Health Authority, Housing Inspector, or Fire Chief, or their authorized representatives.

425.1120 Entry of True Name in Register. No person shall write or cause to be written in any rooming house register any other or different name than the true name of such person or the name by which such person is generally known.

425.1140 Rehabilitation Centers. A rehabilitation center as defined in Section 425.40 relating to the Rental Housing Maintenance Code, may be operated, provided:

- (a) Such rehabilitation center provides a definite program of medical supervision and employs personnel of demonstrated competency in social and physical rehabilitation;
- (b) Files with the Housing Inspector written rules, standards and controls governing the rehabilitation operation and program, and files with the housing inspector any amendments or additions to its code, and such rules, standards, program and amendments thereto are approved by the City Council;
- (c) If the rules, standards and programs as presented are approved by the City Council, such rehabilitation center may then be registered as a multiple dwelling.
- (d) If the above requirements are all complied with, the rehabilitation center may then operate a multiple dwelling without compliance with Sections 425.810, 425.1060 and 425.310 of this Code.

ARTICLE X. SHARED BATH DWELLING UNITS

425.1170 Compliance Required. No person shall occupy or let to another for occupancy any shared bath dwelling except in compliance with the requirements set forth in the Rental Housing Maintenance Code.

425.1180 New Units Prohibited; Removal of Existing. New shared bath dwelling units shall not be installed. Existing shared bath dwelling units not of record shall be vacated and removed. Nothing herein shall prohibit any right of appeal or review by the Housing Board of Appeals as provided by Chapter 1950 of this Code of Ordinances.

ARTICLE XI. UNFIT DWELLINGS

425.1450 Condemnation Authorized; Requiring Vacating. Whenever the Housing Inspector finds that any dwelling, multiple dwelling, or dwelling unit constitutes a hazard to the health, safety, or welfare of the occupants or to the public because it lacks maintenance, or is dilapidated, unsanitary, vermin-infested, or rodent-infested, because it lacks the sanitary facilities and equipment required by the Rental Housing Maintenance Code, or because it violates residential storage standards, the Housing Inspector may condemn such dwelling or dwelling unit as unfit for human habitation. If any dwelling or any part thereof is occupied by more families than provided by this Code, or is erected, altered or occupied contrary to law, such dwelling shall be deemed an unlawful structure and the Housing Inspector may cause such dwelling to be vacated. It shall be unlawful to again occupy such dwelling until it or its occupation, as the case may be, has been made to conform to the law.

415.1460 Placarding. Any dwelling or dwelling units condemned shall be posted with a placard of condemnation by the Housing Inspector. The placard of condemnation shall include the following:

- (a) Name of the city;
- (b) The name of the authorized department having jurisdiction;
- (c) The Chapter and Section of this Code or other ordinance under which it is issued;
- (d) Street address of building, dwelling number if applicable;
- (e) A statement of reason or reasons for condemnation;
- (f) A statement of time when occupants must vacate the dwelling or dwelling unit (not less than twenty-four (24) hours or more than thirty (30) days except in cases of emergency);
- (g) The date that the placard of condemnation is posted;
- (h) A statement of the penalty for defacing or removal of the placard.

425.1470 Notice of Condemnation Required. Whenever the Housing Inspector, County Health Authority, or the Fire Chief intends to condemn a dwelling or dwelling unit, notice shall be given to the owner of such condemnation and placarding of the dwelling or dwelling unit. Such notice shall:

- (a) Be in writing;
- (b) Include the street address of the building, dwelling number if applicable;
- (c) Include a statement of the reason or reasons why it is being issued;
- (d) Set a date to bring the conditions herein set out into compliance with the Rental Housing Maintenance Code and as notice that after said date the building or dwelling will be condemned.

425.1480 Service of Notice of Condemnation. Service of notice of condemnation shall be as follows:

- (a) By delivery to the owner personally, or by leaving the notice at the usual place of abode of the owner with a person of suitable age and discretion, or
- (b) By depositing the notice in the United States Mail addressed to the owner at the owner's last-known address with postage prepaid thereon, or by posting and keeping posted for twenty-four (24) hours a copy of said notice in placard form in a conspicuous place on the condemned premises

425.1490 Duty to Vacate. Any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation by the Housing Inspector, County Health Authority, or the Fire Chief shall be vacated within a reasonable time as required by said Housing Inspector and it shall be unlawful for any owner or operator to let or allow any person to occupy said dwelling or dwelling unit. No person shall occupy any dwelling or dwelling unit, which has been condemned and placarded by said Housing Inspector after the date set forth in the placard of condemnation. The Housing Inspector, County Health Authority, or the Fire Chief may allow a security or fire guard to occupy the condemned dwelling when, in the opinion of said Housing Inspector or commissioner such action best serves public interest.

425.1500 Condemned Dwellings Not To Be Occupied. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from the Housing Inspector, County Health Authority or the Fire Chief. The Housing Inspector, County Health Department, or Fire Chief shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

425.1510 Defacing, Removal of Placard. No person shall deface or remove the placard from any dwelling or dwelling unit that has been condemned and placarded. Such placard shall only be removed by the enforcing officer.

ARTICLE XII. ACCESSORY (NON-DWELLING) STRUCTURES, ETC

425.1550 Compliance Required. No person shall construct, or allow or permit to exist on any premises any accessory (non-dwelling) structure, fence, or condition, which does not comply with the requirements set forth in this article.

425.1560 Construction, Maintenance of Accessory Structures. Every foundation, exterior wall, roof, window, exterior door, basement hatchway, and every other entranceway of every non-dwelling structure shall be so constructed and maintained as to prevent the structure from becoming a harborage for rats. Each entranceway for persons or vehicles in any such structure on residential property shall have exterior doors. All such structures and exterior doors shall be kept in good workmanlike state of maintenance and repair. All exterior surfaces of non-dwelling structures shall be of a material manufactured or processed specifically for use in such a weather-exposed location. Non-dwelling structures shall not be used for the storage of garbage or rubbish unless such garbage or rubbish is placed in an approved container or stored in a manner so as not to constitute a health or safety hazard.

425.1570 Grading and Drainage. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water on said premises or within any building or structure located thereon, and every premises shall be continuously maintained in a sanitary, erosion-free, and dust-free condition by suitable landscaping with grass, trees, shrubs, or other planted ground cover, or by paving with asphalt, concrete, or by such other suitable means as shall be approved by the Housing Inspector. Whenever a premises is not in compliance with this Section and presents a hazard to public health and welfare, the Housing Inspector shall give fifteen (15) days' notice to the owner or owners or the agent of such owners and occupant or tenant of premises in the City to correct the violation. In the event said violation is not corrected, the Housing Inspector shall take the necessary actions to secure compliance with this section. Premises shall be considered hazardous when it becomes a potential source of filth and cause of sickness, when stagnant water or dust is left to accumulate or stand on the premises, or when erosion of the soil causes the same to spill over onto the sidewalk, street or the adjoining property.

425.1575 Open Excavations and Areas. No person shall maintain or allow to continue without approved guardrails any excavation, pit, area wall, stairwell or window-well which, due to its depth and/or location on a premises, constitutes a hazard to the health and safety in the opinion of the Housing Inspector.

425.1590 Fences and Retaining Walls. Every fence and retaining wall on or adjacent to residential property shall be kept well mended and in good repair, consistent with the design thereof.

425.1610 Occupancy Prohibited. No person shall occupy or let or allow another to occupy an accessory (non-dwelling) structure for the purpose of living therein.

ARTICLE XIII. BUILDING SECURITY

425.1640 Purpose. The purpose of this article is to require security devices in certain buildings used for dwellings and certain non-dwelling structures accessory thereto, as a safety, burglary and theft prevention measure. Such security devices shall be installed in a professional manner and maintained operable and effective as installed.

425.1650 Dead Bolt Locks.

- (a) Specifications. A dead bolt not less than three-eighths inch in its least dimension, which penetrates into the strike plate not less than three-eighths inch shall be deemed to meet the requirements of this section. Further dead bolt locks installed or replaced after the adoption of this Code, shall have a bolt throw of at least three-quarters inch and the strike plate shall be secured with steel screws at least two and one-half (2 1/2) inches in length or secured in a manner to provide equivalent security.
- (b) Dead latch, bolt-type locks. Mortised dead latch, bolt-type locks, properly installed and maintained, when installed prior to the adoption of this Code, may be deemed to provide the security required by this article; however, latch-type locks shall not be approved for new installations.
- (c) To be openable without key. Except as hereinafter expressly permitted in this article, dead bolt locks, as required by this Section, shall be of a type openable from the inside without the use of a key or any special knowledge or effort. A lock bolt moved by a skeleton-type key shall not be used to provide security for any rental unit.

425.1660 Locks Required for Rooming Houses. All rooming houses existing now or hereafter constructed shall be provided with dead bolt locks on all entrance doors of each rooming unit. However, rooming houses having six (6) or fewer rooming units and occupied by six (6) or fewer roomers may provide the required security by dead bolt locks on all exterior doors of said rooming house. Key locking shall be as required for other occupancies in this article.

425.1670 Locks Required for Dwellings. All dwellings, when let to another, shall be provided with dead bolt locks on all entrance doors of each dwelling unit, at least one of which must be capable of being locked from the exterior. The provisions of this paragraph become effective at the time of adoption of this code.

425.1685 Security for Exterior Garage Doors. All exterior doors on garages provided for the use of the non-owner occupants of dwellings shall be equipped with such locks, bolts, security bars or other approved security devices which, when in a closed, secured position, will prevent the doors from being opened from the outside.

425.1690 Window Security.

- (a) Operable windows located in whole or in part within six (6) feet above ground or a walking surface below that provides access to a dwelling shall be equipped with a locking device. All other windows and doors of dwellings let to another which are accessible to persons by means of porches, stairs, fire escapes, balconies, corridors, walkways, interior balconies, roofs, or other such possible accesses, shall be provided with an approved locking device which, when in the locked position, will prevent the window or door from being opened from without the dwelling unit or rooming unit.
- (b) Windows and doors of bath and toilet rooms let in conjunction with the aforementioned units shall be provided with an approved locking device when such windows are deemed accessible by the standards set forth in this section.
- (c) The window security required by this Section shall be provided at the prime window or door and latching or locking devices on storm sash or screen frames will not be accepted as meeting the intent of this Section.

425.1700 Responsibility for Security. The owner, operator, or agent in charge of buildings covered by this Article shall be responsible for compliance with the terms and provisions of this Article.

425.1710 Keys Required. The owner, operator, or agent in charge of dwellings let to another shall furnish the lessee with a key for the dead bolt lock or other lock required by this Article.

425.1730 Easement Agreements.

- (a) No utility company may seek to enter a multi-unit dwelling in order to maintain, repair, replace, or remove any of its facilities without providing to the owner of the building not less than four (4) hours advance notice during normal business hours (8:00 a.m. to 5:00 p.m. Monday through Friday) except:
 - (1) In case of emergency;
 - (2) Meter reading, monitoring, adjustments, connecting, or reconnecting;
 - (3) At the request of a tenant;
 - (4) To protect the health and safety of tenants;
 - (5) When the activity does not require the company to access the building through the security doors.

- (b) No utility company may require as a condition of its services that direct sales to the tenants of a multi-unit dwelling with exterior security doors be allowed except during limited periods of time negotiated with the owners of the building and upon adequate notice to the tenants so as not to compromise the security of the building.

ARTICLE XIV. RENTAL DWELLING LICENSES

425.1800 Definitions. Words used in this Article shall have the meanings ascribed in Section 425.40, unless otherwise defined herein. Appropriate action shall mean that action which a reasonable license holder would take based upon the facts and circumstances of each case so as to prevent a reoccurrence of a disorderly use.

425.1810 License Required. License required. No person shall allow to be occupied, or let to another for occupancy, any dwelling unit unless the owner has first obtained a license under the terms of this article.

NOTE: Any “Lease to Own” type arrangement is still technically a rental and must be registered as such until such time as the dwelling unit purchase transaction is accomplished.

NOTE: Any “Contract for Deed” will not be recognized unless properly recorded with the County as required by Minnesota State Statute 507.235.

(Amended Ord. 1331 – 2009)

425.1820 Applicability and Exceptions.

- (a) The provisions of this Article shall apply to all rental dwellings and dwelling units, including rented single-family dwellings and rented dwelling units in owner-occupied dwellings, as well as rented condominiums, rented townhouses and leasehold cooperative dwelling units, as those terms are defined in Minnesota Statute Section 273.124, Subd. 6, Minnesota Statute Chapter 515B, Minnesota law and this Code.
- (b) The provisions of this Article shall not apply to jails; licensed nursing homes; licensed board and care homes; parsonages; parish houses; manses and rectories; hospitals; and owner-occupied dwelling units in a cooperative, condominium or townhouse building.

425.1830 What the License Covers.

- (a) One (1) license shall be issued for each building with rental dwelling units. For each individually owned rental dwelling unit in a multi-unit building, a license will be required of each unit.

- (b) The City shall have authority to exercise its licensing powers under this article, including the power to issue, renew, deny, revoke, and suspend licenses, with respect to an entire building or only a portion of a building.

425.1840 Application for License. The owner of each rental dwelling shall make written application to the Housing Inspector for a license to carry on the business of renting residential property. In addition, the owner of each such rental dwelling constructed after the effective date of this article shall make written application to the Housing Inspector for a license as herein provided prior to initial occupancy. Such application shall be made on a form furnished by the Housing Inspector for such purpose and shall set forth the following information:

- (a) Name, business or residence address, telephone number of the owner. If the owner is a partnership, the name of the partnership, the name, residence address of the managing partner. If the owner is a corporation, the name and address of the corporation and the name of the chief operating officer, in cases where the owner of a dwelling resides outside of the City of Brainerd, the owner's agent/contact person shall reside within thirty (30) miles of the City of Brainerd.
- (b) If the owner has appointed an agent authorized to accept service of process and to receive and give receipt for notices, the name, business or residence address, telephone number of such agent.
- (c) Every applicant, shall identify in the application, by name, residence or business street address, telephone number, a natural person who is actively involved in, and responsible for, the maintenance and management of the premises. Said natural person, if other than the owner, will thereby accept joint and several responsibility with the owner (including any potential criminal, civil, or administrative liability) for the maintenance and management of the premises. A post office box or commercial mail receiving service is not acceptable as an address for such person. The individual authorized herein may also be the owner of the dwelling or an agent identified in subsection (b) above.
- (d) Street address of the dwelling.
- (e) Number and kind of units within the dwelling (dwelling units, rooming units, or shared bath units). For each unit, specify the floor number, and the unit number and/or letter and/or designation.
- (f) In the event that any of the information required to be provided by this section changes, the applicant or licensee shall, within fourteen (14) days, notify in writing the Housing Inspector, or an authorized representative of the Housing Inspector, of the change. However, if the natural person authorized in

subsection (c) changes, the licensee or applicant shall file an amended application within fourteen (14) days. Furthermore, for just cause, the Housing Inspector, or an authorized representative of the Housing Inspector, may request that an applicant or licensee complete and file a new or replacement application for any rental dwelling, giving the licensee or applicant a minimum of fourteen (14) days to comply.

425.1850 Minimum Inspection Standards. The minimum standard to be used for inspections, for compliance with this code for buildings with licenses, shall include the inspection of the building interior and exterior, the site, the common areas and the basement.

425.1860 Expiration; Renewal. All licenses issued under this Article shall expire on May 31st of each year, subject to renewal year to year in the manner provided in this Article. All licensees shall apply for renewal of their licenses on a form provided by the Housing Inspector. No license shall be granted without payment of the required license fee. An individual who is operating a rental dwelling after the license has expired is operating an unlicensed rental dwelling.

425.1870 License Non-Transferable. A license issued hereunder is nontransferable. A new license application shall be required for each change of ownership of a rental dwelling.

425.1880 License Fees.

- (a) An annual license fee shall be assessed on all rental units. The license fee shall be included with the initial application or renewal statement. Such fee shall be set by resolution of the Council. A change in ownership shall require a new license application and payment of the license fee. An increase in the number of licensed dwelling units during the license year shall require an amended license application and the payment of an additional license fee to cover the additional units.
- (b) Operation of an unlicensed dwelling unit shall be subject to an additional administrative fee, in accordance with City Council resolution. This fee shall be in addition to any other appropriate enforcement action or fees due.

425.1900 Issuance of License. When, upon completion of an inspection of a building and rental dwellings therein, the Housing Inspector finds that the minimum standards for licensing set forth in this article have been met, a rental dwelling license may be issued.

425.1910 Licensing standards. The following minimum standards and conditions shall be met in order to hold a rental dwelling license under this article. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation, or suspension of a rental dwelling license.

- (a) The licensee or applicant shall have paid the required license fee.
- (b) Rental dwelling units shall not exceed the maximum number of dwelling units permitted by the zoning ordinance.
- (c) No rental dwelling or rental dwelling unit shall be over occupied or illegally occupied in violation of the zoning ordinance or the Rental Housing Maintenance Code.
- (d) The rental dwelling shall not have been used or converted to rooming units in violation of the zoning ordinance.
- (e) The owner shall not allow weeds, vegetation, junk, debris, or rubbish to accumulate repeatedly on the exterior of the premises so as to create a nuisance condition. If the city is required to abate such nuisance conditions under section 2010 of the City Code, or collect, gather up or haul solid waste more than three (3) times during a period of twelve (12) months or less, it shall be sufficient grounds to deny, revoke, suspend or refuse to renew a license.
- (f) The rental dwelling or any rental dwelling unit therein shall not be in substandard condition, as defined in section 425.1920.
- (g) The licensee or applicant shall have paid the required reinspection fees.
- (h) The licensee or his or her agent shall allow the housing inspector and his or her authorized representative to perform a rental license review inspection as set forth in section 425.2000(c).
- (i) The licensee shall maintain a current register of all tenants and other persons with a lawful right of occupancy to a dwelling unit and the corresponding floor number, and unit number and/or letter and/or designation of such unit within the building. The register shall be kept current at all times. The licensee shall designate the person who has possession of the register and shall inform the housing inspector of the location at which the register is kept. The register shall be available for review by the housing inspector or his or her authorized representatives during normal business hours or in an emergency situation.
- (j) There shall be no delinquent property taxes or assessments on the rental dwelling.
- (k) There is no active arrest warrant for a Brainerd Rental Housing Maintenance Code or Zoning Ordinance violation pertaining to any property in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance.

- (l) Any person(s) who has had an interest in two (2) or more licenses denied, revoked, suspended, or not renewed pursuant to this article or to section 425.1940 or a combination of denials, revocations, suspensions, or non-renewals shall be ineligible to hold or have an interest in a rental dwelling license for a period of five (5) years.
- (m) No new rental dwelling license shall be issued for the property during the pendency of adverse license action initiated pursuant to section 425.1940.
- (n) The licensee or applicant must have a current, complete, and accurate rental dwelling application on file with the housing inspector in accord with the provisions of section 425.1840.
- (o) Any violation as listed in Section 425.2020

(Amended Ord. 1320 – 2008, Ord. 1368 – 2010)

425.1920 Substandard Dwelling. A rental dwelling structure shall be considered substandard if:

- (a) The dwelling unit scores twenty-five (25) or more points; or
- (b) Any major violation within the dwelling remains uncorrected. Any single violation scoring six (6) or more points is considered a major violation.

For purposes of the point calculation in this section, any combination of four (4) rooming units or shared bath units shall constitute one (1) dwelling unit. Points for a violation in a common area of the structure outside a dwelling unit will not be cumulative on a unit-by-unit basis. However, twenty-five (25) or more points in the common areas of a structure, including, but not limited to, the entryways, corridors, community rooms, exterior walls and roof, will constitute a substandard structure.

The Housing Inspector shall cause to be prepared and shall keep on file for public inspection an accurate, complete, and detailed description of each violation used in the point calculation procedure set forth herein. The Inspecting Officer shall assign points according to the severity of each code violation on a scale from one up to the maximum points possible for such violation. Except when otherwise provided by state law, conditions in the design or structure of a building, such as, but not limited to, the size and dimension of rooms and windows and the electrical and plumbing systems, that were legal under existing codes when built shall not be violations as long as they are maintained in good repair. A violation shall receive maximum points when a required item is completely absent, completely fails to perform its function, or is imminently hazardous to the health or safety of the occupants.

Each Code violation shall have a maximum number of points to be assigned based on the relative life-safety hazard created by the code violation. The table of maximum violation points will be established by the Building Official. The Housing Inspector will use the designated Housing Inspection Form for the purpose of determining the existence of substandard dwellings.

425.1925 Reinspection Fee.

- (a) There shall be no fee charged for an initial inspection to determine the existence of a Rental Housing Maintenance Code violation or for the first reinspection to determine compliance with the Code violation. A reinspection fee, set by City Council resolution, shall be charged for each subsequent reinspection that is conducted for compliance with an order, as determined by the Housing Inspector or the Housing Inspector's designee.
- (b) The reinspection fee prescribed above shall be billed directly to the owner or contact person/agent of the property. Reinspection fees shall be increased by fifty (50) percent when not paid within thirty (30) days after initial billing, to cover administrative costs. Failure to pay such fees shall be grounds for denial, revocation, suspension, or non-renewal of a rental dwelling license. This subsection shall not be considered the exclusive method of collecting reinspection fees and shall not preclude collection by other lawful methods.
- (c) Every notice of violation and order to correct Rental Housing Maintenance Code violations shall contain a clear and conspicuous explanation of the policy in this Section requiring fees for reinspections.
- (d) The Housing Inspector may waive a reinspection fee in case of error, mistake, injustice, or other good cause.

425.1930 Condemned and Boarded Buildings. When a building is condemned as hazardous or unfit for human habitation due to defects in its structure or its electrical, plumbing, or mechanical systems, or boarded under Minnesota Statutes, Section 463.251, requiring a Code compliance inspection prior to re-occupancy, the rental dwelling license shall be revoked on the effective date of the condemnation or boarding. The dwelling shall be eligible to hold a rental dwelling license upon reinspection and correction of any violations that caused the building to be condemned.

425.1935 Housing Inspector's Determination of Noncompliance Notice.

- (a) If the Housing Inspector determines that a building or dwelling unit fails to meet the licensing standards set forth in Section 425.1910, or Section 425.1920, he or she shall mail a notice to the owner or the owner's agent. The notice shall specify the reasons why the building or unit fails to meet the licensing standards in Section 425.1910 or Section 425.1920 and shall include a copy of the inspection report if applicable.

- (b) If the rental dwelling fails to meet one or more of the standards set forth in Section 425.1910, the notice shall indicate that the license holder or applicant has ten (10) days to correct the defects, after which the City Council will take action to deny, refuse to renew, revoke, or suspend the license.
- (c) If the rental dwelling fails to meet the standards set forth in Section 425.1920, the notice shall indicate that the license holder or applicant has up to thirty (30) days to correct the defects causing the building to be substandard, after which the City Council will take action to deny, refuse to renew, revoke, or suspend the license. The Housing Inspector may for good cause authorize additional time to correct defects causing a building to be substandard. If the defects create an imminent hazard to health or safety, the Housing Inspector may proceed immediately for denial, non-renewal, revocation, or suspension under Section 425.1940, or may shorten the deadline for compliance to less than thirty (30) days.
- (d) Whenever a notice of noncompliance is issued under this section, the housing inspector shall also cause a notice to tenants to be prominently posted on the building. The notice shall indicate that a license proceeding has been commenced against the owner because the building has been found to be in violation of the Rental Housing Maintenance Code; that after a stated period of time allowed to bring the building into compliance, the city council may proceed to deny, revoke, or suspend the rental dwelling license for the building; that if the City Council denies, revokes, or suspends the license, tenants may be required to vacate the building; that further information can be obtained from the City of Brainerd Building Department.
- (e) The Housing Inspector shall maintain copies of the notice of noncompliance and send copies of the noncompliance notice to tenants at the time of posting of the notice on the building.

425.1940 Denial; Non-Renewal; Revocation; Suspension. If after any period for compliance under Section 425.1935 has expired, the Housing Inspector determines that the dwelling fails to comply with any of the licensing standards in Sections 425.1910 or 425.1920, or the Housing Inspector has initiated an action to deny, revoke, suspend, or not renew a license pursuant to section 425.2020, the Housing Inspector shall mail the owner a notice of denial, non-renewal, revocation, or suspension of the license. The notice shall state:

- (a) That the Housing Inspector has determined that the building fails to comply with the licensing standards for rental dwellings in Section 425.1910 and Section 425.1920, that the licensee has failed to take appropriate action following conduct by tenants and/or their guests on the licensed premises under Section 425.2020, or that the licensee has failed to submit a written management plan that satisfies the requirements set forth in 425.2020(d).

- (b) The specific reasons why the building fails to meet licensing standards, including copies of applicable inspection reports, or notices sent to licensee of conduct on licensed premises.
- (c) That the Housing Inspector has referred the matter to the City Council with a recommendation to deny, not renew, revoke, or suspend the license.
- (d) That the City Council will deny, refuse to renew, revoke, or suspend the license unless the owner appeals the determination within fifteen (15) days after the date of the notice, in the manner provided in Section 425.1960. The notice shall describe how an appeal may be filed under Section 425.1960.
- (e) That after denial, non-renewal, revocation or suspension, the dwelling or the affected dwelling units therein must be vacated, and shall not be reoccupied until all violations are corrected and a license is granted by the City Council, (except where an extension of time has been granted by the housing inspector due to weather). Further, no license will be re-issued by the City Council until an approved plan to control conduct on premises has been presented and accepted by the City Council if the denial, non-renewal, revocation or suspension was under Section 425.2020.
- (f) The Housing Inspector shall cause a notice to tenants to be mailed or delivered to each licensed dwelling unit and prominently posted on the building. The notice shall indicate that the rental dwelling license for the building has been denied, non-renewed, revoked, or suspended, whichever is applicable; that the action will become final on a specific date unless the building owner appeals and requests a hearing; that tenants may be required to vacate the building when the action becomes final; that further information can be obtained from the City of Brainerd Building Department.

(Amended Ord. 1320 – 2008)

425.1945 Reinstatement Fee. A fee set by City Council resolution must accompany any application for reinstatement of any license that has been denied, non-renewed, revoked or suspended under Section 425.2020. This reinstatement fee is in addition to the license fees imposed pursuant to Section 425.1880.

425.1950 Rental Dwelling License Board of Appeals.

- (a) There is hereby created a Rental Dwelling License Board of Appeals. The Board shall consist of five (5) members who shall be appointed by the City Council. The Board Members shall serve for a period of two (2) years and until its successors have been appointed and qualified. Two (2) members shall be real estate agents or brokers, residential rental property managers, or

residential rental property owners; two (2) members shall be tenants or residential rental housing advocates; one (1) member shall be appointed from the general public. The Fire Chief and the Housing Inspector shall be nonvoting ex officio members of the Board. The Housing Inspector or the Housing Inspector's designee shall serve as the secretary of the Board. A majority of the voting members shall constitute a quorum. The Board shall be subject to the Minnesota Open Meeting Law.

- (b) The Board shall have authority to hear and decide all appeals from the Housing Inspector's recommendation to deny, not renew, revoke, or suspend a rental dwelling license.

425.1960 Appeals Procedure.

- (a) Any person wishing to appeal a determination of the Housing Inspector recommending denial, non-renewal, revocation, or suspension of a license shall file a written notice of appeal with the Building Department within fifteen (15) days after the date of the notice of denial, non-renewal, revocation, or suspension. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee set by city council resolution.
- (b) The Board shall meet at the call of the chair, to hear appeals. The Board shall notify the owner in writing of the time and place of the hearing.
- (c) At the hearing, the Board shall hear all relevant evidence and argument. The Board may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The Board shall record the hearing and keep a record of documentary evidence submitted.
- (d) The Board shall render its decision in writing within thirty (30) days after the close of the hearing. The decision shall determine whether the building, or dwelling units therein, meets the licensing standards of Sections 425.1910, 425.1920, or 425.2020, and shall specify the factual and legal basis for the determination.
- (e) The Board shall mail a copy of its decision to the license holder or applicant and to each licensed dwelling unit.
- (f) The Board shall refer its decision to the City Council, which shall have final authority to issue, deny, renew, revoke, or suspend the license. The City Council may hear argument from the license holder/applicant, but shall take no further evidence. The City Council may affirm, modify, or reverse the decision of the Board.

- (g) The final decision of the City Council shall be mailed to the license holder or applicant.
- (h) A notice to tenants of the final decision shall be mailed to each occupant and prominently posted on the building. The notice shall indicate the date upon which tenants must vacate the building and shall clearly indicate which dwelling units are affected.

(Amended Ord. 1320 – 2008)

425.1970 Vacation of Affected Dwelling Units. When an application for rental dwelling license has been denied, or a rental dwelling license has been revoked, suspended, or not renewed, or when the owner has not obtained a current rental dwelling license upon proper application as required by this Chapter, the Housing Inspector shall order the dwelling or the affected dwelling units therein vacated, giving tenants a reasonable time to arrange new housing and to move their possessions.

425.1980 Operation of Rental Dwelling Without License a Misdemeanor. A person who allows to be occupied, or lets to another, any dwelling unit, without a license as required by this article, is guilty of a misdemeanor.

425.1985 Unauthorized Removal of Notices a Misdemeanor. Any person who removes, defaces, tampers or in any way interferes with any notice posted pursuant to this article, is guilty of a misdemeanor.

425.1990 Remedies In This Article Not Exclusive. The remedies provided in this Article are not exclusive. They are in addition to, and do not supersede or preempt, other remedies such as condemnation, written violation orders and warnings, criminal charges for violation of substantive provisions of any City or State Code relating to housing maintenance, fire safety, building codes, zoning, health, and the like. Further, the remedies in this Article do not supersede or affect the legal rights and remedies of tenants provided under state law or this Code.

425.2000 Duties of Licensee. Every holder of a rental dwelling license shall:

- (a) Post his or her license certificate when received from the Housing Inspector. The certificate shall be conspicuously posted in a frame with transparent cover in a public corridor, hallway, or lobby of the dwelling for which it is issued. For other than multiple dwellings, the certificate shall be prominently posted at or near the front entrance of the building.
- (b) Maintain a current register of all tenants and other persons with a lawful right of occupancy to a dwelling unit and the corresponding floor number, and unit number and/or letter and/or designation, within the building. The register shall be kept current at all times. The licensee shall designate the person who

has possession of the register. The register shall be available for review by the Housing Inspector or authorized representatives during normal business hours or upon an emergency situation.

- (c) Permit the Housing Inspector and his or her authorized representatives, either voluntarily or pursuant to an administrative or other warrant, to enter upon the premises for the purpose of conducting inspections to verify compliance with the Rental Housing Maintenance Code, and the fire, health, zoning and building Codes of the City. Such inspections shall be made at such frequencies as the Housing Inspector deems appropriate and necessary, and when practical, shall provide reasonable advance notice to the license holder or a managing agent.
- (d) The owner of any dwelling which is required to be licensed by this Chapter shall, prior to the time of sale of said dwelling, notify the buyer in writing of all unabated orders and violation tags issued by the Housing Inspector or Building Department, pertaining to said dwelling, as well as the requirement of law that said dwelling, upon acquisition by a new owner, must be licensed with the Housing Inspector. A copy of the notification shall be mailed to the Housing Inspector within five (5) days of furnishing the notification to the buyer. If the dwelling is owned by a corporation, an officer of said corporation shall carry out the notification required by this Section. If the property is owned by more than one person, a notification by one of the owners shall satisfy this section. For the purposes of this Section, "time of sale" shall be construed to mean when a written purchase agreement is executed by the buyer or, in the absence of a purchase agreement, upon the execution of any document providing for the conveyance of a dwelling required to be licensed.
- (e) Submit current application information as required by Section 425.1840 of this Chapter.

425.2010 Notices. Whenever a notice is required to be sent to or served upon the licensee of a rental dwelling under this Article, notice shall be deemed sufficient if sent by first class mail to the owner or owner's authorized agent at the address specified in the last license application filed in the Building Department under Section 425.1840. If a notice sent to the address specified in the last license application is returned, and the owner or owner's agent cannot be found, then notice shall be sent to the person authorized in the last license application, under subsection 425.1840(c), as responsible for the maintenance and management of the premises, or any other known caretaker or manager, and a notice shall also be posted on the building. Every licensee shall notify the inspections division within fourteen (14) days of any changes in the names, addresses, and other information concerning the persons listed in the last license application filed with the division. Whenever notice is required to be sent or delivered to tenants of a dwelling unit under this article, notice shall be sufficient if sent by first class mail to the tenants or occupants of each licensed dwelling unit at the address specified in the license application or the register that the licensee maintains pursuant to section 425.2000(b).

425.2020 Conduct on Licensed Premises.

- (a) It shall be the responsibility of the licensee to take appropriate action, with the assistance of the Brainerd Police Department, following conduct by tenants and/or their guests on the licensed premises which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.
 - (1) Minnesota Statute 504B.171 which prohibits the following illegal activities: Prostitution, unlawful sale of controlled substances, unlawful possession, transport, sale, or use of weapons, possession of stolen property;
 - (2) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling;
 - (3) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
 - (4) Minnesota Statutes, Section 609.72, which addresses disorderly conduct;
 - (5) Minnesota Statutes, Section 609.33, which addresses disorderly house;
 - (6) Section 2014 of the Brainerd City Code, which addresses noise related issues.
- (b) The Brainerd Police Department shall be responsible for enforcement and administration of Section 425.2020.
- (c) Upon determination by the Brainerd Police Department utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in Subsection (a), the Brainerd Police Department shall notify the licensee by mail of the violation and direct the licensee to take appropriate action with the assistance of the Brainerd Police Department to prevent further violations.
- (d) If another instance of disorderly use of the licensed premises occurs within twelve (12) months of an incident for which a notice in Subsection (c) was given, the Brainerd Police Department shall notify the licensee by mail of the violation. The licensee shall then submit a written management plan to the Brainerd Police Department within ten (10) days of receipt of the notice of disorderly use of the premises. The written management plan shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken by the licensee to prevent further

disorderly use of the premises. The notice provided to the licensee of the violation shall inform the licensee of the requirement of submitting a written management plan may result in the City Council taking action to deny, refuse to renew, revoke or suspend the licensee.

- (e) If another instance of disorderly use of the licensed premises occurs within eighteen (18) months, if the premises contains between one (1) and six (6) distinct and separate residential units, or within twelve (12) months, if the premises contains more than six (6) distinct and separate residential units, after the second of any two (2) previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwellinglicense for the premises may be denied, revoked, suspended, or not renewed. An action to deny, revoke, suspend, or not renew a license under this Section shall be initiated by the Brainerd Police Department in the manner described in Section 425.1940, and shall proceed according to the procedures established in Sections 425.1950, 425.1960, and 425.1970.
- (f) No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings or after proper notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or his/her guests. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the Brainerd Police Department within ten (10) days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued by the Brainerd Police Department at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.
- (g) A determination that the licensed premises have been used in a disorderly manner as described in Subsection (a) shall be made upon substantial evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license action under this Section.
- (h) The Brainerd Police Department shall review Section 425.2020 three (3) years after the effective date of these revisions to determine its impact upon both landlords and tenants, and to recommend any changes which may be appropriate. The Brainerd Police Department shall keep records of all actions and proposed actions under Section 425.2020 to facilitate the committee review required herein.



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 1483**

**AN ORDINANCE AMENDING BRAINERD CITY CODE
SECTION 1200 INTOXICATING LIQUOR**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: That Section 1200.03 – License Required shall be amended to read:

Subd. 2. - On-Sale Licenses. On-sale licenses shall be issued only to hotels, clubs, **BOWLING CENTERS**, restaurants, and exclusive liquor stores and permit on-sale of liquor only.

- a) In order to hold an on-sale license, a restaurant must meet the requirements of Minnesota Statutes section 340A.101, subdivision 25, have facilities for serving not less than 30 guests at one time, and maintain a Category 3 food establishment license as defined in Minnesota Statutes section 157.16, subdivision 3. ~~Any on-sale license issued to said restaurant shall be designated a Division 2 license, as defined below.~~
- b) Recipients of on-sale licenses are divided into three classes:
 - i. Class 1: bars, pubs and taverns.
 - ii. Class 2: restaurants.
 - iii. Class 3: other (e.g., clubs, bowling centers, and hotels).
- c) The number of Class 1 on-sale licenses (for bars, pubs and taverns) that may be issued by the City cannot exceed 12.
- d) All applicants for an on-sale license shall submit plans and specifications of their proposed building for Council approval.

Subd. 3. On-Sale Wine Licenses. On sale wine licenses shall be issued only to restaurants meeting the qualification of Minnesota Statutes, Section 340A, 404, Subdivision 5, ~~and permit only the sale of wine not exceeding 14% alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food.~~

Subd. 7(a) – Sunday On-Sale License. Special on sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to **BOWLING** centers and to hotels, restaurants, and clubs as defined in Minnesota Statutes 340A.101. All sales at such establishments shall be in accordance with Minnesota Statutes 340A.504, Subd. 3.

SECTION TWO: That Section 1200.21 – On-Sale Liquor Zones and License Limitations On sale intoxicating liquor licenses may be issued in the following areas and under the following limitations be removed in its entirety.

~~**Subd. 1.** This Subdivision shall only apply to that portion of the City of Brainerd bounded on the west by the west line of Fourth Street South; on the north by the centerline of the Burlington Northern Santa Fe Railway Company right of way; on the east by the east line of Ninth Street South; on the south by the south line of Maple Street; and, Lots 16 thru 24 inclusive Block 37 excepting that part of Lots 19 and 20 desc as follows; beg at the NW corner of said Lot 19, then N 89 deg 57 min 40 sec E, assumed bearing, along N line of said Lot 19, 79.79 ft, then S 00 deg 07 min 58 sec E 45.14 FT, then S 89 deg 52 min 02 sec W 79.88 ft to the W line of~~

~~said Block 37, then N 00 deg 01 min 06 sec W along said W line of Block 37, 45.27 ft to the point of beg subject to easements of record. Not more than six (6) on sale liquor licenses that are not excluded from license limits under Minnesota Statutes section 340A.413, subdivision 4, do not comply with subdivision 4 of this Section shall be issued in this zone. Subject to all other provisions of this Ordinance, all existing on sale liquor licenses within this zone on January 1, 2001, shall continue to be allowed unless current liquor licensing for such business fails to be maintained. If current licensing for such a business shall lapse or expire without a timely renewal, any future license applications for that business within this zone will be subject to the limitations of this Subdivision. Nothing in this Subdivision shall prevent existing licenses issued prior to January 1, 2001, from being transferred to new owners at the same site. Further, the City Council shall be allowed to grant requests for existing licenses to be moved from one location in the area of the City covered by this subdivision to another location within the area covered by this subdivision without meeting the requirements of Subdivision 4 of this Section. Upon the grant of said license at a new location, the licensee shall return to the City their license granted for the former location at which time the license shall be cancelled at that location. However, the City Council may take action to grant approval of a new license at the former location. These restrictions shall not apply to clubs and shall only apply when six (6) or more on sale licenses are issued within this zone.~~

Subd. 2. ~~The Commercially Zoned property located 200 feet north and south of Washington Street from the west edge of the Mississippi River Bridge to the west City Limits and the Commercially Zoned property located 150 feet north and south of Washington Street from the east City Limits to the east edge of the Mississippi River Bridge.~~

Subd. 3. ~~Subd. 3. The following described realty: That part of the SE 1/4 SW 1/4 of Sec. 19, Twp. 45 North, Rge. 30 West, described as follows: Commencing at the Northeast corner of Block 13, "East Side Addition To The City Of Brainerd"; thence West, assumed bearing, along the North line of said Block 13 and said North line extended, 560.15 feet; thence South 267.25 feet to the place of beginning; thence South 55 feet; thence East 34 feet; thence North 55 feet; thence West 34 feet to the place of beginning.~~

~~a) Lot 1, Block 1, Rademacher's Commercial Addition~~

~~b) Lots 1 and 2, Block 1, Haines Addition to the Town of East Brainerd and that part of adjacent vacated Ash Street~~

~~c) Lots 4, 5, 6, 7, 8 & 9, Block 2, Millers Addition to East Brainerd, along with the —vacated north/south alley in Block 2, Millers Addition to East Brainerd~~

Subd. 4. ~~One half (1/2 or more of all on sale liquor licenses shall be issued to bona fide restaurants, eating establishments, or other eligible facilities (such as hotels, hotels, convention centers, bowling alleys, etc) where the serving and sale of liquor is only incidental to the principal business use. In furtherance of this objective.~~

~~a) A restaurant or eating establishment must provide a seating capacity in the dining area for at least ____ persons.~~

~~b) The bar area for a restaurant, eating or other establishment shall be not more than 49% of the size of the dining area or principle use of the establishment.~~

~~c) Said establishments shall further provide off street parking to accommodate motor vehicles of its patrons. Off street parking spaces shall be provided at the ratio of~~

~~one parking stall for every three units of seating capacity in the dining area of restaurant or eating establishments. Other establishments shall comply with the parking regulations contained in the Zoning Code. Said motor vehicle parking area shall be located adjacent or contiguous to the facility or, if this is not feasible, in a nearby area, which shall be subject to Council approval.~~

~~**Subd. 5.** All applicants for an on-sale liquor license shall submit plans and specifications of their proposed building including the proposed off street parking area for Council approval.~~

~~**Subd. 6.** The following described realty: All that part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) and of the Southeast Quarter of the Southwest Quarter (SE1/4SW1/4) of Section 19, Township 45 North, Range 30 West, and Lots 1, 2, and 3, Block 13, East Side Addition to the City of Brainerd; and Lots 1, 2 and 3, Block 16, Lots, 1, 2, 3, 4, 5, and 6, Block 15, and Lots, 1, 2, and 3, Block 14, Haines Addition to the Town of East Brainerd; Fractional Block 3, and Lots 1, 2 and 3, Block 2, Millers Addition to East Brainerd; Lots 10, 11 and 12, Block 2, Millers First Addition to the City of Brainerd and the vacated streets and alleys included within the following described tract; Beginning at the Northeast corner of Lot 3, Block 13, said East Side Addition to the City of Brainerd; thence West 885 feet along the South line of E Street to the Northwest corner of said Lot 3, Block 14, Haines Addition to the Town of East Brainerd; thence South 150 feet along the West line of said Lot 3 to the North line of the alley South of said Block 14; thence East 72.2 feet along the North line of said alley; thence South 20 feet across said alley; thence West 50 feet along the South line of said alley to the Northwest corner of Fractional Block 3, Millers Addition to East Brainerd; thence South 142 feet along the West line of said Fractional Block 3 to the North line of D Street; thence East 50 feet along the North line of said D Street; thence South 66 feet to the South line of D Street; thence West 190 feet along the South line of said D Street to the Northwest corner of said Lot 3, Block 2, Millers Addition to East Brainerd; thence South 300 feet to the Southwest corner of Lot 10, Block 2, Millers First Addition to the City of Brainerd on the North line of C Street; thence East 40 feet along the North line of said C Street; thence South 66 feet to the South line of said C Street, thence West 100 feet to the Northwest corner of Lot 4, Block 3, Millers First Addition to the City of Brainerd; thence South 140 feet to the Southwest corner of said Lot 4; thence East 150 feet to the Southeast corner of Lot 2, Block 3, Millers First Addition to the City of Brainerd; thence South 160 feet to the Southwest corner of Lot 12, Block 3, Millers First Addition to the City of Brainerd on the North line of B Street; thence East 50 feet along the North line of B Street to the Southeast corner of said Lot 12, thence South 66 feet to the right of way line for Highway No. 210, thence East 215.66 feet along said right of way line; thence North 48 degrees 08 minutes East 506.12 feet continuing along said right of way line; thence North 1 degree 17 minutes West 429.74 feet; thence North 89 degrees 54 minutes East 301.19 feet to the Westerly right of way line for Trunk Highway No. 25; thence North 3 degrees 56 minutes West 192.55 feet along said right of way line; thence West 8.3 feet to the Southeast corner of Lot 1, Block 13, East Side Addition to the City of Brainerd; thence North 150 feet along the East line of said Block 13 to the place of beginning. Except the following described property: Lots 1, 2 and 3, Block 3, Millers First Addition to the City of Brainerd, except any portion of the vacated part of C Street which lies adjacent to and Northerly of said Lots 1 and 2, and that portion of the vacated 20 foot alley in said Block 3 which lies between said Lots 1, 2 and 3 and Lots 10, 11 and 12, Block 3, Millers First Addition to the City of Brainerd.~~

~~Lots 1, 2 and 3, Block 2, Millers Addition to East Brainerd;~~

~~Lots 10, 11 and 12, Block 2, Millers First Addition to the City of Brainerd;~~

~~Lot 12, Block 3, Millers First Addition to the City of Brainerd;~~

~~Lot 4, Block 3, Millers First Addition to the City of Brainerd.~~

~~Subd. 7. Lot 1 Block 1, Northern Pacific Center~~

SECTION THREE: That Section 1200.23 – Off-Sale Liquor Zones and License Limitations: Intoxicating off-sale liquor licenses ~~may be issued in the following areas and under~~ **ARE SUBJECT TO** the following limitations:

~~Subd. 1. All on-sale liquor zones as described in Section 1200.21.~~

~~Subd. 2. Lots 1 and 2, Block 8, Willis Addition to the City of Brainerd~~

~~Subd. 3. Lots 7 through 9, Block 3, Miller's First Addition to the City of Brainerd~~

~~Subd. 4. Lot 1, Block 1, Jake's Warehouse Foods.~~

~~Subd. 5. That part of the Southeast quarter of the Northwest quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-nine (29), Township Forty-Five (45) North, Range Thirty (30) West described as follows: Commencing at a point on the South line of said SE $\frac{1}{4}$ NW $\frac{1}{4}$ which is 1760.40 feet East of the West quarter corner of said section 29; thence North 50 feet to the Northerly right-of-way (ROW) line of Oak Street; thence East along said Northerly ROW line 225.00 feet to the Point of Beginning (POB); thence North 33 degrees 21 minutes 06 seconds East 566.65 feet to the Westerly ROW line of State Highway 25; thence South 34 degrees 44 minutes 21 seconds East along said Westerly ROW line 276.00 feet; thence South 27 degrees 37 minutes 43 seconds West 278.26 feet to the Northerly ROW of Oak Street; thence West along said Northerly ROW line 339.76 feet to the POB. Subject to easements, reservations, or restrictions of record. Parcel address: 3325 Oak Street, Brainerd.~~

~~Subd. 6 Off-sale liquor licenses may be issued subject to the following conditions:~~

~~SUBD. 1 Every off-sale license holder shall have a place of business with solid walls, floor to ceiling, with no interior openings and with a separate exterior entrance.~~

~~SUBD. 2 Off-street parking shall be provided to accommodate not less than five motor vehicles contiguous to said place of business or, if this is not feasible, in a nearby area, which shall be subject to Council approval.~~

~~**Subd. 3.** All applicants for an off-sale liquor license shall submit plans and specifications of their proposed building including the proposed off-street parking area for Council approval.~~

SECTION FOUR: All other provisions of Section 1200 shall remain in full force and effect.

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

Adopted this ____ day of ____, 2018

DAVID J. PRITSCHET
President of the Council

Approved this ____ day of ____, 2018

EDWIN L. MENK
Mayor

ATTEST: _____
CASSANDRA TORSTENSON
City Administrator

Summary Published: One Time, ____, 2018



Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

PETITION FOR STREET OR ALLEY VACATION

Date: August 16, 2018

Brainerd, Minnesota

To the City Council of Brainerd, Minnesota:

We, the undersigned, owners of real estate abutting on the following described street or alley hereby petition that such street be vacated as follows:

That portion of Williams Street lying northeasterly of the southeasterly projection of the northeasterly right-of-way line of Northwest 4th Street, according to the recorded plat of West Brainerd, Minnesota and subject to previous vacations of Williams Street on record, and;

That portion of Northwest 3rd Street lying southeasterly of the of northeasterly projection of the southwesterly right-of-way line of Williams Street and lying northwesterly of a line parallel with and 75.0 feet normally distant and northwesterly from BNSF Railway Company's (formerly Northern Pacific Railway Company) Main Track Centerline.

in accordance with the provisions of Brainerd City Code Section 810.

<u>NAME</u>	<u>ADDRESS</u>	<u>LOT</u>	<u>BLOCK</u>	<u>ADDITION</u>
Independent School District #181	804 Oak Street	1-12	22	West Brainerd
Independent School District #181	804 Oak Street	1-12	20	West Brainerd
Independent School District #181	804 Oak Street	1-12	2	West Brainerd
Independent School District #181	804 Oak Street	1-12	4	West Brainerd

[illegible]

EARL R. WOLLENT, being duly sworn on oath, deposes and says that he/she is the property owner or authorized representative in regard to the above entitled petition; that he/she has read the foregoing petition which includes the signatures of abutting property owners and knows the contents and signatures thereof; and that the same are true of his own knowledge, save and except as to those matters therein stated on information and belief, and to such matters, he/she believes it to be true.



Signature

Director of Buildings & Grounds
Title

Subscribed and sworn to before me
this 16th day of August, 20 18
Aphraim H. Best
Notary Public

Notary Public

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City of Brainerd has received a petition from Independent School District 181, the owners of: Lots 1-12, Block 22; Lots 1-12, Block 20; Lots 1-12, Block 2; and Lots 1-12, Block 4 in West Brainerd, for the vacation of a portion of Williams Street between NW 3rd Street and NW 4th Street and NW 3rd Street between Williams Street and the BNSF Railway Mainline Centerline Track described as;

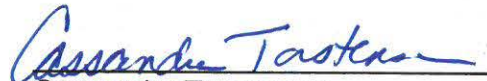
That portion of Williams Street lying northeasterly of the southeasterly projection of the northeasterly right-of-way line of Northwest 4th Street, according to the recorded plat of West Brainerd, Minnesota and subject to previous vacations of Williams Street on record, and;

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Notice is further given that the City Council of Brainerd will meet in the Council Chambers of the City Hall at Brainerd, Minnesota, at 7:30 p.m. on Monday, October 1, 2018 to conduct a Public Hearing to consider said Vacation.

Such persons as desire to be heard with reference to the proposed vacation of said street will be heard at this meeting.

Dated this 5th day of September 2018


Cassandra Torstenson
City Administrator

Publish - 2 times on
September 7, 2018 and September 14, 2018

Client:

CITY OF BRAINERD

Account # 316123 Ad # 2676221

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Page 1 of 1

(Published in the Brainerd Dispatch,
September 7, 14, 2018, 2t.)

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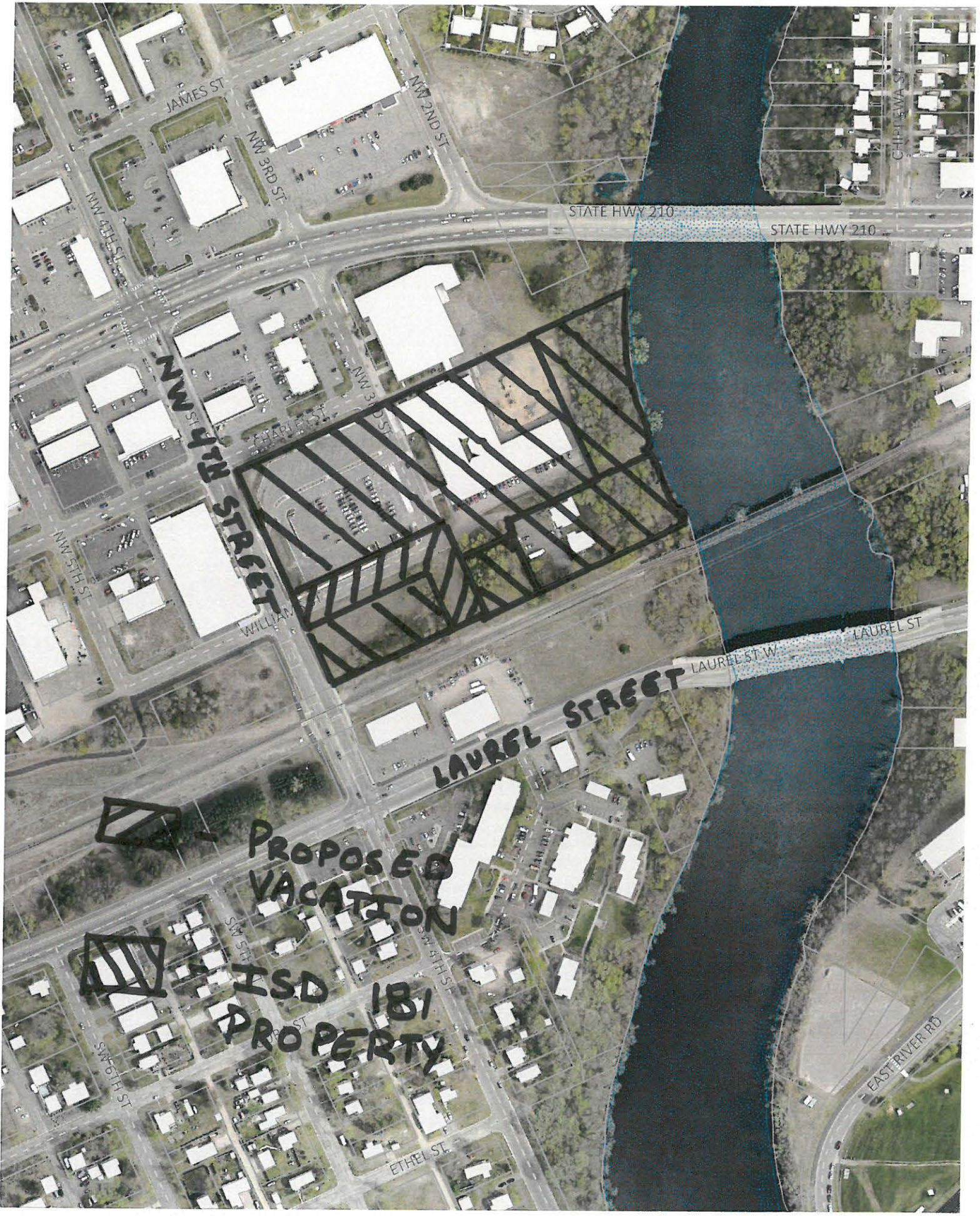
That portion of Williams Street lying northeasterly of the southeasterly projection of the northeasterly right-of-way line of Northwest 4th Street, according to the recorded plat of West Brainerd, Minnesota and subject to previous vacations of Williams Street on record, and; That portion of Northwest 3rd Street lying southeasterly of the northeasterly projection of the southwesterly right-of-way line of Williams Street and lying northwesterly of a line parallel with and 75.0 feet normally distant and northwesterly from BNSF Railway Company's (formerly Northern Pacific Railway Company) Main Track Centerline.

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Dated this 5th day of September 2018

Cassandra Torstenson
City Administrator



JAMES ST

NW 3RD ST

NW 2ND ST

STATE HWY 210

STATE HWY 210

CHIEF LANA ST

NW 4TH STREET

WILLIAM

LAUREL STREET

LAUREL ST W

LAUREL ST

PROPOSED
VACATION

ISD 181
PROPERTY

EAST RIVER RD

ETHEL ST

**RESOLUTION
NO 45:18**

**A RESOLUTION DECLARING SUFFICIENCY OF PETITION AND SETTING A
PUBLIC HEARING ON A VACATION COMMENCED BY A PETITION OF A
MAJORITY OF ABUTTING LANDOWNERS**

WHEREAS, a petition signed by the majority of property owners abutting a portion of Northwest 3rd Street and Williams Street in the City of Brainerd and was received by the City Clerk on the 16th day of August 2018; and

WHEREAS, the petition requested that the City Council pursuant to Minnesota Statute §412.851 vacate a portion of Northwest 3rd Street between Williams Street and the BNSF Railway Mainline Track and Williams Street between Northwest 3rd Street and Northwest 4th Street described as:

That portion of Williams Street lying northeasterly of the southeasterly projection of the northeasterly right-of-way line of Northwest 4th Street, according to the recorded plat of West Brainerd, Minnesota and subject to previous vacations of Williams Street on record, and; That portion of Northwest 3rd Street lying southeasterly of the of northeasterly projection of the southwesterly right-of-way line of Williams Street and lying northwesterly of a line parallel with and 75.0 feet normally distant and northwesterly from BNSF Railway Company's (formerly Northern Pacific Railway Company) Main Track Centerline

WHEREAS, the City Clerk has reviewed and examined the signatures on said petition and determined that such signatures constitute a majority of the landowners abutting upon the portion of each street to be vacated; and

WHEREAS, a copy of said petition is attached hereto.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRAINERD, MINNESOTA AS FOLLOWS:

The Council will consider the vacation of such street and a public hearing shall be held on such proposed vacation on the 1st day of October 2018, before the City Council in the City Hall located at 501 Laurel Street, Brainerd, MN 56401 at 7:30 p.m. and;

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to give published, posted and mailed notice of such hearing as required by law.

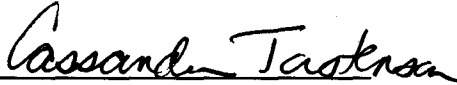
Adopted this 4th day of September, 2018

DAVID J. PRITSCHET
President of the Council

Approved this 5th day of September, 2018



EDWIN L. MENK
Mayor

ATTEST: 
CASSANDRA TORSTENSON
City Administrator

**R E S O L U T I O N
N O .**

RESOLUTION VACATING STREET

WHEREAS, a hearing was duly held on October 1, 2018 for the proposed vacation of the following described Street:

That portion of William Street lying northeasterly of the southeasterly projection of the northeasterly right-of-way line of Northwest 4th Street, according to the recorded plat of West Brainerd, Minnesota and subject to previous vacations of William Street on record, and; That portion of Northwest 3rd Street lying southeasterly of the of northeasterly projection of the southwesterly right-of-way line of William Street and lying northwesterly of a line parallel with and 75.0 feet normally distant and northwesterly from BNSF Railway Company's (formerly Northern Pacific Railway Company) Main Track Centerline

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRAINERD, MINNESOTA:

1. That the Street as previously described is hereby vacated.
2. The City of Brainerd, however, specifically reserves unto itself an easement for utilities over, under, and upon said portion of the vacated street.

Adopted this ____ day of October 2018

DAVID J. PRITSCHET
President of the Council

Approved this ____ day of October 2018

EDWIN L. MENK
Mayor

ATTEST: _____
CASSANDRA TORSTENSON
City Administrator

From: [Jeff V. Czczok](#)
To: [Cassandra Torstenson](#)
Cc: [Stephanie Bestul](#)
Subject: {external} Submitted for October 1, 2018 Public Hearing
Date: Tuesday, September 25, 2018 3:31:17 PM

Dear Cassandra,

Please provide this email to Brainerd's elected officials related to the public hearing on the street vacations for the October 1, 2018 City Council meeting.

Included in this email are the following data and or relevant links:

A,) February 12, 2018 relevant copied text from Brainerd School Board meeting agenda and minutes.

B,) The link to the 02/12/2018 BoardBook which includes the above 2 items.

C,) Copied text from State Statute 13D.05

D,) The link to State Statute 13D.05

E,) The link to Advisory Opinion 14-014 regarding entering into closed session.

I intend on speaking at the public hearing and want the Mayor and City Council members to have this information.

Sincerely, Jeff

This is the copied text from the 02/12/2018 school board meeting agenda and the copied text from the minutes. I have provided the links for both the agenda and minutes from the 02/12/2018 school board meeting if the Mayor and City Council think it necessary to verify what I've provided.

Please note the specific state statute is cited, but the requirement to identify the particular property did not occur:

Agenda:

13. Closed Meeting - The meeting will be closed pursuant to Minnesota Statutes §13D.03, for Labor Negotiations Strategy and Minnesota Statutes §13D.05, for Data Classified as Not Public, to develop or consider offers or counteroffers for the purchase or sale of real or

personal property.}

Minutes:

13. Closed Meeting - The meeting will be closed pursuant to Minnesota Statutes §13D.03, for Labor Negotiations Strategy and Minnesota Statutes §13D.05, for Data Classified as Not Public, to develop or consider offers or counteroffers for the purchase or sale of real or personal property. Moved by Director Haglin, second by Director Nystrom to move into closed session. Carried at 7:01 p.m.

14. The Board moved into closed session at 7:10 p.m., in the Boardroom of the Washington Educational Services Building.

15. 16. The Board reconvened into the public meeting at 8:47 p.m., in the Boardroom of the Washington Educational Services Building. Moved by Director Nystrom, second by Director Kern to move back into open session. Carried. Amend Agenda and direct Administration to enter negotiations. Moved by Director Nystrom, second by Director Haglin to amend the agenda and approve district administration to enter into negotiations for potential land acquisition for purposes of a new Baxter Elementary School. Carried 5-0.

17. Adjourned at 8:48 p.m. _____ Tom Haglin,
Clerk/Treasurer Janet Horn, Recording Secretary

The following is a link to the agenda and the minutes for the February 12, 2018 school board meeting:

<https://v3.boardbook.org/Public/PublicMeetingMaterials.aspx?ak=1000426&mk=50272766>

The following is the relevant copied text from State Statute, 13D.05:

Subd. 3. What meetings may be closed.

(3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

Before holding a closed meeting under this paragraph, the public body must identify on the record the particular real or personal property that is the subject of the closed meeting. The proceedings of a meeting closed under this paragraph must be tape recorded at the expense of the public body. The recording must be preserved for eight years after the date of the meeting and made available to the public after all real or personal property discussed at the meeting has been purchased or sold or the governing body has abandoned the purchase or sale. The real or personal property that is the subject of the closed meeting must be specifically identified on the tape. A list of members and all other persons present at the closed meeting must be made available to the public after the closed meeting.

Link to state statute 13D.05:

<https://www.revisor.mn.gov/statutes/cite/13d.05>

The Advisory Opinion below indicates how the public body is required to identify the particular property that is the subject of the closed meeting.

Link to Advisory Opinion 14-014:

<https://mn.gov/admin/data-practices/opinions/library/?id=36-266458>

Please let me know if you have any questions or concerns.

Thanks much, Jeff



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From: [Jeff V. Czezok](#)
To: [Cassandra Torstenson](#)
Cc: [Stephanie Bestul](#)
Subject: {external} City Administrator Torstenson: Fwd: Data Responses
Date: Tuesday, September 25, 2018 6:14:41 PM

Dear Administrator Torstenson,

This email I am forwarding is a portion of a data request response I received from Superintendent Larson which will indicate the date of the school board closed meeting conducted on February 12, 2018, was indeed to discuss the purchase of the BNSF property near Riverside School. This is the property the District purchased which in turn the District is now requesting the City to approve the vacation of portions of 2 streets...NW 3rd Street and Williams Street.

I requested to be provided with the closed meeting audio recording of the purchase of the BNSF property. This is the property close to Riverside School. I understand the 02/012/2018 school board meeting minutes and agenda do not indicate the particular property the District was required to identify prior to entering into closed session. I also understand how the elected officials might be confused after reading the minutes, because the minutes only mention the District was moving forward with negotiations with the property in Baxter associated with the District's plans on building a new Baxter School.

The school board actually entered into closed session with two, or perhaps even three, properties they intended on discussing in closed session, however, there were no particular properties identified.

I very much appreciate your call to explain the confusion based on my not being clear in my earlier email as to why I was submitting the associated information related to the School District's purchase and to further explain why I provided said information. I will be speaking during the public hearing on Monday, October 1, 2018. I will try to explain why the City should not vacate the portions of NW 3rd Street and a portion of Williams Street based on the cloak of darkness surrounding the purchase of the BNSF property and how there is additional information I'll be providing to support my request of the City Council.

Please provide this email along with my earlier email related to this issue to the Mayor and City Council members in the information packet they receive prior to their meeting. If you or any of the elected officials wish to have a copy of the entire response I received from Superintendent Larson, please don't hesitate letting me know.

And please don't hesitate letting me know if you've any further questions or concerns.

Very truly yours, Jeff
828-8476

----- Forwarded Message -----

Subject:Data Responses

Date:Fri, 10 Aug 2018 12:25:38 -0500

From:datarequest 1 <datarequest@isd181.org>

To:Jeff V. Czezok <bubbajustice@charter.net>

CC:Jennifer Castle <jenny.castle@isd181.org>

Dear Mr. Czezok:

I am writing in response to your July 10, July 11, and July 12, 2018 requests for data from ISD 181.

July 10, 2018 Request for Data:

Request No. 5: The final purchase agreement for the property purchased from DNSF Railroad.

Response: Data responsive to this request will be provided for your inspection in the District's main offices during normal business hours. You may schedule a time to inspect this data by contacting Jenny Castle, Human Resources Director, at (218) 454-6960.

Request No. 6: All audio recordings from closed meetings associated with the negotiation of this purchase.

Response: Public data responsive to this request will be provided for your inspection in the District's main offices during normal business hours. You may schedule a time to inspect this data by contacting Jenny Castle, Human Resources Director, at (218) 454-6960.

Sincerely,

Laine D. Larson
Superintendent - ISD 181



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Brainerd City Council Agenda Request

Requested Meeting Date:

Title of Item:

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☐ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by:	Department:
Presenter (Name & Title):	Estimated Time Needed:
Summary of Issue:	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion:	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

8. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and Ordinances of the City.
 9. Written consent of the owner or lessee of any site on which the sign is to be erected.
 10. Any Electrical Permit and/or Building Permit required and issued for the sign.
 11. A detailed description of any electronic or electrical components that are proposed to be added to the sign.
 12. Other information to demonstrate compliance with this and all other Ordinances of the City.
- D. The Sign Permit application shall be accompanied by a fee. Fees for the review and processing of Sign Permit applications shall be imposed in accordance with the fee schedule established by City Ordinance.
- E. The City shall notify the applicant, in writing, of an incomplete application within fifteen (15) days of the date of submission.
- F. The City shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, Ordinances and applicable performance standards set forth in this Ordinance within sixty (60) days of submission of a complete application pursuant to MN State Statutes Section 15.99. If the work that is authorized under a permit has not been completed within sixty (60) days after the date of issuance, the permit shall be null and void.
- G. All signs, including electric wiring, supporting structure, guy wires or chains, shall be properly maintained and kept in safe condition. A sign or sign structure which is deteriorated, unsafe, defaced or otherwise altered shall be repaired, repainted or replaced by the permit holder or property owner on which the sign is located.

515-37-5: Permit Not Required. The following signs shall not require a permit and are allowed in addition to those signs allowed by Section 515-37-10 of this Ordinance. These exemptions however shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance and its compliance with the provisions of this Ordinance or any other law or Ordinance regulating the same.

- A. The changing of the display surface on an existing sign.
- B. One (1) temporary off-premise sign on private property six (6) square feet or less in size, not to exceed three (3) feet in height in Residential Districts. Temporary signs shall be allowed for a period of seven (7) days.

- C. All non-commercial speech signs of any size posted in any number from forty-six (46) days before the State primary in a State general election year until ten (10) days following the State general election, and thirteen (13) weeks prior to any special election until ten (10) days following the special election, subject to the following:
1. Signs shall comply with the fair campaign practices act contained in Minnesota State Statutes Section 211B.045.
 2. No such sign shall be located within one hundred (100) feet of any polling site.
 3. Signs must be removed by the person responsible within ten (10) days following an election.
 4. Signs shall be located on private property with permission of the property owner.
 5. Signs are not permitted in the public right-of-way or within the sight visibility triangle.
 6. The City shall have the right to remove and destroy all signs not conforming to this subsection.
- D. Signs located within the public right-of-way are regulated by Chapter VIII of the City Code.
- E. Official signs.
- F. Flags or emblems of a National, Federal or State government or memorial signs thereof, displayed on private property
- G. Except for temporary signs in 517-37 9 G, one (1) on-premise temporary sign shall be allowed per street frontage when a property is offered for sale or lease, provided that:
1. Within the R (residential) districts, no sign shall exceed twelve (12) square feet in area and six (6) feet in height for single family, two family, townhouse, and quadraminium units; or thirty-two (32) square feet in area or eight (8) feet in height for multi-family or public and semi-public uses.
 2. Within non-residential districts, thirty-two (32) square feet is allowed if less than ten (10) acres.
 3. Within all other zoning districts and in those cases where a parcel of land exceeds ten (10) acres, regardless of its zoning, no sign shall exceed sixty-four (64) square feet in area or ten (10) feet in height.
 4. Directional and information signs for parking areas, loading areas, and for buildings or locations on a site subject to the following conditions:

City Administrators Report – October 1, 2018

Employment Topics

Classification Study

On September 13th, our Classification and Compensation Study Consultant Tessia Melvin from DDA met with Employees to review the points and the process to develop the points for each classification as required by MN Pay Equity Law. The appeal process ended on September 21st and are currently under review.

Community Development Director

15 job applications were received by DDA. The top 10 applicants are currently under review.

AP/Administrative Specialist Position

41 applications were received. We interviewed 8 on September 21 and 24. A conditional offer was made to an applicant today – October 1st. Background check, credit check, and health exam are currently underway.

Union Negotiations

City met with the Police Officer Union and that Parks and Streets Department Union. We are currently working to schedule additional negotiations.

Economic Development

Destination Downtown Brainerd 2.0

Seventy-three applications were received for the Destination Downtown 2.0 competition. The judges reviewed the applications and narrowed the field to 11. The deadline for Phase II was September 16th. The judges narrowed the list down to three finalists and the winner will be announced at the Chamber Annual Event in November.

River to Rail Initiative

The R2R Steering Committee will be meeting on September 5th. BLAEDC has enlisted the help of Lisa Haberman to help facilitate the meeting. Lisa has a lot of talent and enthusiasm about what we are doing and wants to help. She has graciously agreed to either talk with or get together with each Engine leader to assist in the completion of each R2R Engine Workplan. The Workplan will help identify goals and next steps for R2R.

Downtown

The downtown events were a successful venture this summer. There were a variety of events that took place downtown including: Lakes Area Music Festival Outdoor Concert in the Parking Lot, Hearing Canvas Seeing Music, Belly Bliss, 1 mural painting, a weekly farmers market, an artist painting on the sidewalk, and sidewalk sales by downtown merchants.

Mixed Use Real Estate Finance Class

Jennifer Bergman and I will be attending a training October 2-4th focused on Main Street and Economic Development. This course explores debt, equity and public/private financing tools available for Main Street redevelopment. It also will explore how to finance mixed-use development as a way to catalyze Main Street, energizing it with shopping, dining, culture and entertainment. These concepts are transferrable to Economic Development city wide.