

CITY COUNCIL AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Monday, March 21st, 2022 @ 7:30pm

The public is invited to attend these meetings in person

Attend by phone **City Council**: 1-844-992-4726 Meeting Access Code: 2489 135 9799

Attend by phone **Safety and Public Works Committee 6:45 PM**: 1-844-992-4726 Meeting
Access Code: 2480 517 5734

Attend by phone: **Personnel and Finance Committee 7:00 PM**: 1-844-992-4726 Meeting
Access Code: 2483 331 1114

Meeting is also streamed live on YouTube: www.youtube.com/CityOfBrainerdMN

1. Call To Order - 7:30pm

2. Roll Call

____ T. Stenglein ____ T. Erickson ____ M. O'Day ____ K. Stunek

____ G. Johnson ____ D. Pritschet ____ K. Bevans ____ Mayor
Badeaux

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 Bills**

Documents:

FEB 22 PREPAID INVOICE REGISTER.pdf
032122 COUNCIL INV REGISTER.pdf

B. **Approval Of Minutes**

Documents:

2022-03-07 CC Draft.pdf

C. Approval Of Licenses

Contingent Upon Approvals:

Southside Express:

Filling Station/Bulk Plant

Tobacco

Off-Sale Liquor

Last Turn Saloon

On-Sale Liquor

Sunday On-Sale Liquor

Documents:

[20220321 Contractor Licenses.pdf](#)

D. Department Activity Reports

Police Chief

Finance Director

IT/GIS Director

Community Development Director

Documents:

[2022-02 PD Monthly Report.pdf](#)

[Council Dept Report IT 2022-02 20220321.pdf](#)

[Community Development Director Report - March 2022.pdf](#)

6. Council Committee Reports

A. Safety And Public Works Committee - 6:45 PM

WebEx Teleconference Call-In Information

Call Toll-Free: 1-844-992-4726

Access Code: 2480 517 5734

Documents:

03-21 SPW Agenda.pdf

1. Resolution Approving Joint Powers Agreement For Lakes Area Drug Investigative Division And Authorize Signatures

Documents:

LADID JPA.pdf

2. Approve 2022 Bridge Inspection Request For Proposals

Documents:

Bridge Safety Inspections RFP.pdf

3. Approve Construction Cost Share Agreement For Pavement Marking With Crow Wing County

Documents:

Cost Share Agreement.pdf

4. Approve Contract Towing Specifications And Authorize Bidding Of Services

Documents:

Contract Towing Bids.pdf

5. Approve Plans And Specifications And Authorize Bidding - East River Road Improvements With Mississippi Landing Trailhead Project

Documents:

East River Road Improvements.pdf

6. Approve Plans And Specifications And Authorize Bidding For 2022 Sanitary Sewer Collection System Repairs

Documents:

2022 Sanitary Sewer Repair Project.pdf

7. Approve Request For Proposals For Harrison Elementary Oak Street Safe Routes To School Project

Documents:

SRTS RFP.pdf

8. Resolution - Detour Agreement With The Minnesota Department Of

Transportation For The South 6th Street Reconstruction Project (SP 1814-08)

Documents:

Res - Detour Agreement with State of Minnesota.pdf

9. Consideration Of Bids And Award Of Contract For The NP Center Segment Of The Cuyuna Lakes State Trail Project

Documents:

Cuyuna Trail NP Center Bids.pdf

B. Personnel And Finance Committee 7:00 PM

WebEx Teleconference Call-In Information

Call Toll-Free: 1-844-992-4726

Access Code: 2483 331 1114

Documents:

03-21 PF Agenda.pdf

1. Approve Memoranda Of Agreements (MOA) Regarding Effective Date For 2021 IUOE Central Pension Fund Contributions

Documents:

MOA Central Pension Fund.pdf

2. Consider Proposals For Charter Contributions Organizations

Documents:

Charter Contributions Agenda Item.pdf

3. Discussion Of Implement The Street Lighting Policy

Documents:

Street Policy Implementation.pdf

4. Update On Request For Funds To Be Returned From LAMC

Documents:

Update on LAMC.pdf

7. Unfinished Business

A. Call For Applicants - Informational

(Application Information at www.ci.brainerd.mn.us/boards/)

Mayor Recommended: (terms to expire on 12/31 of said year)

Cable TV Advisory Committee – 2 terms (Expire 2022) 1 term (Expire 2024)

Charter Commission – 1 term (Expire 2022)

Rental Dwelling License Board of Appeals – 3 terms (Expire 2022)

Mayor Recommended: (terms to expire 09/07 of said year)

Economic Development Authority (EDA) – 1 term (Expire 2022) 1 term (Expire 2026)

Council President Recommended: (terms to expire 12/31 of said year)

Planning Commission—1 term (Expire 2023)

Ad Hoc Committees – Applicants Needed

Water Tower Fundraising Committee – Two positions available

8. New Business

A. Resolution - Establishing The Parking Commission As A Standing Committee

Documents:

Resolution - Establishing the parking Commission as a Standing Committee (1).pdf

B. Resolution - Reestablishing Precincts And Polling Places

Documents:

Res-Precincts and Polling Locations.pdf

C. First Reading - Proposed Ordinance No. 1524 - Amending City Code Section 320: Administrative Citations

Documents:

*First Reading - Proposed Ordinance No. 1524 - Amending
Section 320.pdf*

**D. First Reading - Proposed Ordinance No. 1525 - Amending City
Code Section 425: Rental Housing Maintenance Code**

Documents:

*First Reading - Proposed Ordinance No. 1525 - Amending
Section 425.pdf*

**E. First Reading - Proposed Ordinance No. 1526 - Amending City
Code Section 450: Property Maintenance Code**

Documents:

*First Reading - Proposed Ordinance No. 1526 - Amending
Section 450.pdf*

**F. First Reading - Proposed Ordinance No. 1527 - Amending City
Code Section 515: Zoning Code And The Official Zoning Map**

Documents:

*First Reading - Proposed Ordinance No. 1527 - Amending
Section 515.pdf*

**G. First Reading- Proposed Ordinance 1528- An Ordinance Replacing
Section 1135 Of The Brainerd City Code With Updated Language**

Documents:

ORD 1528 - T21 UPDATE TO TOBACCO RESTRICTIONS.pdf

**H. Consideration Of Interim Use Permit For Commercial Greenhouse
To Support The Operations Of Yesterday's Gone Bar & Grill**

Documents:

*Consideration of Interim Use Permit for Commercial
Greenhouse.pdf*

**I. Consideration Of Interim Use Permit For Short Term Rental At 704
Fir St.**

Documents:

Consideration of Interim Use Permit for Short Term Rental.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)

11. **Mayor's Report**

12. **Council Member Reports**

13. **Adjourn**

Visit the City's Website at www.ci.brainerd.mn.us

MISSION

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

03/16/2022 12:56 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 02/01/2022 - 02/28/2022

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

Page: 1/1

Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnalized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						

Vendor 3413 - RATWIK, ROSZAK:

DEC 2021

69960	RATWIK, ROSZAK AND MALONEY	02/09/2022	02/10/2022	12,188.36	0.00	Paid	Y
	DEC 21 SPECIAL SERVICES/RETAINER	pziemer					12/31/2021
	101-1610-43301	CITY ATTORNEY		4,853.36			
	101-1610-43301	CITY ATTORNEY		3,075.00			
	401-1902-43300	PROFESSIONAL SERVICES		105.00			
	401-1919-43300	PROFESSIONAL SERVICES		1,452.00			
	401-1609-43300	PROFESSIONAL SERVICES		1,098.00			
	295-0000-20600	DEPOSITS PAYABLE		600.00			
	295-6510-43300	PROFESSIONAL SERVICES		1,005.00			
	Total for vendor 3413 - RATWIK, ROSZAK:			12,188.36	0.00		

# of Invoices:	1	# Due:	0	Totals:	12,188.36	0.00
# of Credit Memos:	0	# Due:	0	Totals:	0.00	0.00
Net of Invoices and Credit Memos:					12,188.36	0.00

--- TOTALS BY GL DISTRIBUTION ---

101-1610-43301	CITY ATTORNEY	7,928.36
295-0000-20600	DEPOSITS PAYABLE	600.00
295-6510-43300	PROFESSIONAL SERVICES	1,005.00
401-1609-43300	PROFESSIONAL SERVICES	1,098.00
401-1902-43300	PROFESSIONAL SERVICES	105.00
401-1919-43300	PROFESSIONAL SERVICES	1,452.00

--- TOTALS BY FUND ---

101 - GENERAL FUND	7,928.36	0.00
295 - EDA FUND	1,605.00	0.00
401 - CONSTRUCTION FUND	2,655.00	0.00

--- TOTALS BY DEPT/ACTIVITY ---

0000 -	600.00	0.00
1609 - 16:09 BUFFALO HILLS RECON	1,098.00	0.00
1610 - LEGAL-CIVIL ATTORNEY	7,928.36	0.00
1902 - 19:02 CLST CONNECTION	105.00	0.00
1919 - 19:19 NW 3RD&JACKSON STRE	1,452.00	0.00
6510 - ECONOMIC DEVELOPMENT AUTH	1,005.00	0.00

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
Vendor 0011 - ACE HARDWARE:							
304167 70442	ACE HARDWARE SQD 432 - TAPE 225-2120-42221	03/03/2022 pziemer	03/23/2022	20.68	20.68	Open	N 03/23/2022
	SQUAD CAR REPAIR SUPPLIES			20.68			
304268 70449	ACE HARDWARE HOT WATER JETTER WAND REBUILD 238-3160-42220	03/08/2022 pziemer	03/23/2022	3.13	3.13	Open	N 03/23/2022
	REPAIR & MAINT			3.13			
304267 70450	ACE HARDWARE HOT WATER JETTER WAND 238-3160-42220	03/08/2022 pziemer	03/23/2022	38.29	38.29	Open	N 03/23/2022
	REPAIR & MAINT			38.29			
304256 70451	ACE HARDWARE HOT WATER JETTER WAND PART 3 238-3160-42220	03/08/2022 pziemer	03/23/2022	9.87	9.87	Open	N 03/23/2022
	REPAIR & MAINT			9.87			
304237 70461	ACE HARDWARE LIME AND RUST REMOVER 230-5200-42220	03/07/2022 pziemer	03/23/2022	6.29	6.29	Open	N 03/23/2022
	REPAIR & MAINT			6.29			
304245 70462	ACE HARDWARE MMP - EXTENSION CORDS, FASTENERS 230-5200-42220	03/07/2022 pziemer	03/23/2022	20.42	20.42	Open	N 03/23/2022
	REPAIR & MAINT			20.42			
304271 70463	ACE HARDWARE HOT WATER JETTER WAND PART 4 238-3160-42220	03/08/2022 pziemer	03/23/2022	24.26	24.26	Open	N 03/23/2022
	REPAIR & MAINT			24.26			
304270 70464	ACE HARDWARE GRINDING AND CUTTING WHEELS 235-3125-42220	03/08/2022 pziemer	03/23/2022	60.19	60.19	Open	N 03/23/2022
	REPAIR & MAINT			60.19			
304309 70472	ACE HARDWARE HOSE CLAMPS AND PEG BOARD HOOKS 235-3100-42220	03/09/2022 pziemer	03/23/2022	19.25	19.25	Open	N 03/23/2022
	REPAIR & MAINT			19.25			
304323 70484	ACE HARDWARE SPRAY PAINT, PRIMER, MARKER 235-3125-42220	03/10/2022 pziemer	03/23/2022	17.06	17.06	Open	N 03/23/2022
	REPAIR & MAINT			17.06			

03/16/2022 03:14 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

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EXP CHECK RUN DATES 03/21/2022 - 03/21/2022

BOTH JOURNALIZED AND UNJOURNALIZED

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
304328 70492	ACE HARDWARE 1/4 SOCKET ADAPTOR- 3/8 SOCKET 235-3100-42220	03/10/2022 pziemer	03/23/2022	15.27 15.27	15.27	Open	N 03/23/2022
304355 70537	ACE HARDWARE FASTENERS 230-5200-42220	03/11/2022 pziemer	03/23/2022	14.52 14.52	14.52	Open	N 03/23/2022
304296 70539	ACE HARDWARE ALUMINUM, PAINT, BOLTS, FASTENERS 230-5200-42220	03/09/2022 pziemer	03/23/2022	38.49 38.49	38.49	Open	N 03/23/2022
304307 70540	ACE HARDWARE MR. CLEAN MAGIC ERASER 2 PACK 230-5200-42210	03/09/2022 pziemer	03/23/2022	6.46 6.46	6.46	Open	N 03/23/2022
304351 70541	ACE HARDWARE FASTENERS 230-5200-42220	03/11/2022 pziemer	03/23/2022	5.70 5.70	5.70	Open	N 03/23/2022
304391 70542	ACE HARDWARE SPRAYPAINT 230-5200-42220	03/14/2022 pziemer	03/23/2022	32.34 32.34	32.34	Open	N 03/23/2022
304354 70543	ACE HARDWARE SQUAD MAINTENANCE 225-2120-42221	03/11/2022 pziemer	03/23/2022	26.99 26.99	26.99	Open	N 03/23/2022
304410 70547	ACE HARDWARE SPRAYPAINT 230-5200-42220	03/14/2022 pziemer	03/23/2022	16.17 16.17	16.17	Open	N 03/23/2022
304426 70549	ACE HARDWARE BUTANE CYLINDER FOR WELDING TORCH 235-3100-42220	03/15/2022 pziemer	03/23/2022	8.99 8.99	8.99	Open	N 03/23/2022
304438 70555	ACE HARDWARE BOLTS, NYLON ROPE-DOWNTOWN FLAGS 101-1940-42220	03/15/2022 pziemer	03/23/2022	61.32 61.32	61.32	Open	N 03/23/2022

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INVOICE REGISTER REPORT FOR CITY OF BRAINERD

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BOTH OPEN AND PAID

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
304442 70556	ACE HARDWARE VAC TRUCK FILL LINE TUBING 237-3190-42220	03/15/2022 pziemer	03/23/2022	8.90 8.90	8.90	Open	N 03/23/2022
	REPAIR & MAINT						
304461 70564	ACE HARDWARE RECYCLE FLUORESCENT BULBS 230-5200-42220	03/16/2022 pziemer	03/23/2022	31.50 31.50	31.50	Open	N 03/23/2022
	REPAIR & MAINT			31.50			
	Total for vendor 0011 - ACE HARDWARE:			486.09	486.09		

Vendor 2902 - ADVANCE AUTO PA:

6574206985036 70482	ADVANCE AUTO PARTS BRAKE CLEANER 235-3100-42220	03/10/2022 pziemer	03/23/2022	71.76 71.76	71.76	Open	N 03/23/2022
	REPAIR & MAINT						
6574206985020 70483	ADVANCE AUTO PARTS DEGREASER AND ANTI SEIZE 235-3100-42220	03/10/2022 pziemer	03/23/2022	45.59 45.59	45.59	Open	N 03/23/2022
	REPAIR & MAINT						
6574207085065 70493	ADVANCE AUTO PARTS TRAILER MARKER BULBS 235-3100-42220	03/11/2022 pziemer	03/23/2022	7.62 7.62	7.62	Open	N 03/23/2022
	REPAIR & MAINT						
6574207385131 70518	ADVANCE AUTO PARTS BATTERY CLEANER 235-3125-42220	03/14/2022 pziemer	03/23/2022	3.54 3.54	3.54	Open	N 03/23/2022
	REPAIR & MAINT						
6574207485182 70538	ADVANCE AUTO PARTS HOT WATER JETTER OIL FILTER 238-3160-42220	03/15/2022 pziemer	03/23/2022	11.18 11.18	11.18	Open	N 03/23/2022
	REPAIR & MAINT			11.18			
	Total for vendor 2902 - ADVANCE AUTO PA:			139.69	139.69		

Vendor 2670 - AMERICAN STEEL:

108752 70524	AMERICAN STEEL SUPPLY INC ANGLE IRON GROOMER REPAIR 230-5200-42220	03/11/2022 pziemer	03/23/2022	19.70 19.70	19.70	Open	N 03/23/2022
	REPAIR & MAINT			19.70			
	Total for vendor 2670 - AMERICAN STEEL:			19.70	19.70		

Vendor 2846 - AMERICAN WELDING:

Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnlized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
08384526							
70494	AMERICAN WELDING-GAS INC	03/10/2022	03/23/2022	65.05	65.05	Open	N
	WELDER DRIVE ROOLER	pziemer					03/23/2022
	235-3125-42220	REPAIR & MAINT		65.05			
	Total for vendor 2846 - AMERICAN WELDING:			65.05	65.05		

Vendor 0039 - AMERIPRIDE LINE:

253000111862	ARAMARK UNIFORM SERVICES	03/03/2022	03/23/2022	113.53	113.53	Open	N
70419	RUGS AND OVERALLS	piemer					03/23/2022
	235-3100-43430	MISCELLANEOUS		113.53			
253000114619	ARAMARK UNIFORM SERVICES	03/10/2022	03/23/2022	82.70	82.70	Open	N
70501	RUGS AND OVERALLS	piemer					03/23/2022
	235-3100-43430	MISCELLANEOUS		82.70			
	Total for vendor 0039 - AMERIPRIDE LINE:			196.23	196.23		

Vendor 0319 - BAKER TILLY MUN:

BTMA13443	BAKER TILLY MUNICIPAL ADVISORS, LLC	03/08/2022	03/23/2022	3,100.00	3,100.00	Open	N
70499	BOND 2011A ARBITRAGE 12/19/16-2/1/22 pziemer						03/23/2022
	313-7920-46620	PAYING AGENT FEES		3,100.00			
	Total for vendor 0319 - BAKER TILLY MUN:			3,100.00	3,100.00		

Vendor 3966 - BLUE SKY TRANSIT:

22022	BLUE SKY TRANSIT	03/01/2022	03/23/2022	102,206.80	102,206.80	Open	N
70560	FEB 2022 THIRD PARTY SERVICES	pziemer					03/23/2022
	203-9000-42212	MOTOR FUELS		4,614.02			
	203-9000-43401	VEHICLE REPAIRS		13,710.82			
	203-9000-43440	TRANSIT SERVICE CONTRACT PY		83,881.96			
	Total for vendor 3966 - BLUE SKY TRANSIT:			102,206.80	102,206.80		

Vendor 3120 - BOLTON & MENK:

0284912	BOLTON & MENK	02/25/2022	03/23/2022	214.50	214.50	Open	N
70410	BRD NW 4TH ST/CSAH 20 IMPROVEMENTS	pziemer					03/23/2022
	401-1901-43300	PROFESSIONAL SERVICES		214.50			
	Total for vendor 3120 - BOLTON & MENK:			214.50	214.50		

Vendor 0065 - BOYER TRUCKS RO:

03/16/2022 03:14 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 03/21/2022 - 03/21/2022

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

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Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnalized Post Date
003P18630 70475	BOYER TRUCKS ROGERS TRUCK 106 OVERLOAD SPRING 235-3125-42220	03/09/2022 pziemer	03/23/2022	172.08	172.08	Open	N 03/23/2022
	REPAIR & MAINT			172.08			
	Total for vendor 0065 - BOYER TRUCKS RO:			172.08	172.08		
Vendor 3922 - BRAINERD HISTORIC WATER TOWER PRESE:							
3/16/22 70562	BRAINERD HISTORIC WATER TOWER PRESE NOTCH 8 WATER TOWER DONATION 101-0000-20803	03/16/2022 pziemer	03/23/2022	598.50	598.50	Open	N 03/23/2022
	WATERTOWER DONATIONS-CC			598.50			
	Total for vendor 3922 - BRAINERD HISTORIC WATER TOWER PRESE:			598.50	598.50		
Vendor 0077 - BRAINERD HYDRAU:							
23350 70471	BRAINERD HYDRAULICS/AIR VACTOR QUICK CONNECT FOR RECIRCULATI 237-3190-42220	03/07/2022 pziemer	03/23/2022	116.50	116.50	Open	N 03/23/2022
	REPAIR & MAINT			116.50			
	Total for vendor 0077 - BRAINERD HYDRAU:			116.50	116.50		
Vendor 0078 - BRAINERD LAKES:							
50 70416	BRAINERD LAKES AREA DEV C 2021 2ND HALF FUNDING 295-6510-43300	12/31/2021 pziemer	03/23/2022	30,000.00	30,000.00	Open	N 12/31/2021
	PROFESSIONAL SERVICES			30,000.00			
	Total for vendor 0078 - BRAINERD LAKES:			30,000.00	30,000.00		
Vendor 2684 - BRAINERD PARKS:							
3/14/22 70553	BRAINERD PARKS & RECREATION CHANGE FUND - CONCESSIONS/CAMPGROUND 230-0000-10300	03/14/2022 pziemer	03/23/2022	450.00	450.00	Open	N 03/23/2022
	CHANGE FUND			450.00			
	Total for vendor 2684 - BRAINERD PARKS:			450.00	450.00		
Vendor 0296 - BRAINERD PUBLIC:							
FEB 22 COBRA 70178	BRAINERD PUBLIC UTILITIES REMIT FEB 2022 COBRA 101-0000-22800	02/24/2022 pziemer	03/23/2022	3,901.71	3,901.71	Open	N 03/23/2022
	OTHER LIABILITIES			3,901.71			
FEB 2022/CITY 70421	BRAINERD PUBLIC UTILITIES 1/24/22-2/24/22 CITY UTILITIES	02/28/2022 pziemer	03/23/2022	1,929.46	1,929.46	Open	N 03/23/2022

03/16/2022 03:14 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 03/21/2022 - 03/21/2022

BOTH JOURNALIZED AND UNJOURNALIZED

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Inv Num Inv Ref#	Vendor Description	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
	GL Distribution						
	101-1940-43381	BPU UTILITIES		1,278.80			
	101-1940-43381	BPU UTILITIES		230.98			
	101-9200-43381	BPU UTILITIES		64.24			
	236-3180-43381	BPU UTILITIES		36.00			
	401-1003-43380	UTILITIES		319.44			
FEB 2022/PD							
70422	BRAINERD PUBLIC UTILITIES	02/28/2022	03/23/2022	5,006.63	5,006.63	Open	N
	1/24/22-2/24/22 PD UTILITIES	pziemer					03/23/2022
	225-2120-43381	BPU UTILITIES		5,006.63			
FEB 2022/FD							
70423	BRAINERD PUBLIC UTILITIES	02/28/2022	03/23/2022	3,078.88	3,078.88	Open	N
	1/24/22-2/24/22 FD UTILITIES	pziemer					03/23/2022
	225-2220-43381	BPU UTILITIES		3,078.88			
FEB 2022/PARKS							
70424	BRAINERD PUBLIC UTILITIES	02/28/2022	03/23/2022	5,533.51	5,533.51	Open	N
	1/24/22-2/24/22 PARKS UTILITIES	pziemer					03/23/2022
	230-5200-43381	BPU UTILITIES		5,533.51			
FEB 2022/STREETS							
70425	BRAINERD PUBLIC UTILITIES	02/28/2022	03/23/2022	24,628.43	24,628.43	Open	N
	1/24/22-2/24/22 STREET DEPT UTILITIES	pziemer					03/23/2022
	235-3100-43381	BPU UTILITIES		24,628.43			
FEB 22/LIBRARY							
70426	BRAINERD PUBLIC UTILITIES	02/28/2022	03/23/2022	1,330.36	1,330.36	Open	N
	1/24/22-2/24/22 LIBRARY UTILITIES	pziemer					03/23/2022
	211-5500-43381	BPU UTILITIES		1,330.36			
202203075188							
70469	BRAINERD PUBLIC UTILITIES	03/07/2022	03/23/2022	41,588.62	41,588.62	Open	N
	2016A GO BOND - CITY SHARE	pziemer					03/23/2022
	237-3190-46611	INTEREST PAYMENTS		41,588.62			
	Total for vendor 0296 - BRAINERD PUBLIC:			86,997.60	86,997.60		
Vendor 0095 - BROCK WHITE CO:							
15285616-00							
70488	BROCK WHITE CO LLC	03/02/2022	03/23/2022	8,312.50	8,312.50	Open	N
	IMP 22-02 CRAFT CO BOX - ROAD SAVER	pziemer					03/23/2022
	401-9030-43430-22:02	MISCELLANEOUS		8,312.50			
	Total for vendor 0095 - BROCK WHITE CO:			8,312.50	8,312.50		
Vendor 2106 - BSN SPORTS, LLC:							
916084994							
70437	BSN SPORTS, LLC	02/17/2022	03/23/2022	2,599.98	2,599.98	Open	N
	BASKETBALL SYSTEM-MEMORIAL PARK PROJ	pziemer					03/23/2022
	400-9050-45510	CAPITAL - LAND		2,599.98			

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Total for vendor 2106 - BSN SPORTS, LLC:				2,599.98	2,599.98		
Vendor 0102 - CANON FINANCIAL:							
28173964 70515	CANON FINANCIAL SERVICE COPIER LEASE - FD 225-2220-43331	02/24/2022 pziemer LEASED PAYMENTS	03/23/2022	26.84 26.84	26.84	Open	N 03/23/2022
28254976 70523	CANON FINANCIAL SERVICE 3/20-4/19 LIBRARY COPIER LEASE 211-5505-43430	03/12/2022 pziemer MISC - COPY MACHINE PYMTS	03/23/2022	100.06 100.06	100.06	Open	N 03/23/2022
Total for vendor 0102 - CANON FINANCIAL:				126.90	126.90		
Vendor 0447 - CDW GOVERNMENT,:							
S570027 70434	CDW GOVERNMENT, INC TRIPPLITE UPS QTY2 101-1800-42210	02/23/2022 pziemer OPERATING SUPPLIES	02/23/2022	327.28 327.28	327.28	Open	N 03/23/2022
S575916 70435	CDW GOVERNMENT, INC CISCO MERAKI MDM QTY6 1YEAR 101-1800-43309	02/23/2022 pziemer COMPUTER SUPPORT	03/23/2022	198.42 198.42	198.42	Open	N 03/23/2022
S726614 70436	CDW GOVERNMENT, INC TONER - TRANSIT 203-9000-42200	02/25/2022 pziemer OFFICE SUPPLIES	03/23/2022	797.18 797.18	797.18	Open	N 03/23/2022
Total for vendor 0447 - CDW GOVERNMENT,:				1,322.88	1,322.88		
Vendor 1343 - CHARTER COMMUNICATION:							
0055470030822 70550	CHARTER COMMUNICATIONS 3/8/22-4/7/22 FD BUSINESS TV 225-2220-43380	03/08/2022 pziemer UTILITIES	03/23/2022	7.85 7.85	7.85	Open	N 03/23/2022
0008065030822 70552	CHARTER COMMUNICATIONS 3/8/22-4/7/22 PD CHARTER 225-2220-43380	03/08/2022 pziemer UTILITIES	03/23/2022	46.51 46.51	46.51	Open	N 03/23/2022
Total for vendor 1343 - CHARTER COMMUNICATION:				54.36	54.36		
Vendor 3414 - COILS FLAGS - F:							

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6142 70454	COILS FLAGS - FLAGPOLES DOWNTOWN FLAGS 101-1940-42220	12/08/2021 pziemer	03/23/2022	468.95	468.95	Open	N 03/23/2022
	REPAIR & MAINT			468.95			
	Total for vendor 3414 - COILS FLAGS - F:			468.95	468.95		
Vendor 3378 - COLLINS BROTHER:							
22-96661 70503	COLLINS BROTHERS TOWING SQD 430 - TOWED 225-2120-42221	02/18/2022 pziemer	03/23/2022	20.00	20.00	Open	N 03/23/2022
	SQUAD CAR REPAIR SUPPLIES			20.00			
	Total for vendor 3378 - COLLINS BROTHER:			20.00	20.00		
Vendor 0122 - COMMUNITY ACTIO:							
MARCH 2022 70444	COMMUNITY ACTION MAR 2022 LEVY PAYMENT 101-9200-43460	03/04/2022 pziemer	03/23/2022	8,895.67	8,895.67	Open	N 03/23/2022
	REMIT COMMUNITY ACTION LEVY			8,895.67			
	Total for vendor 0122 - COMMUNITY ACTIO:			8,895.67	8,895.67		
Vendor 0125 - CONSOLIDATED TE:							
21017902/IT 70527	CONSOLIDATED TELEPHONE CO PHONES/INTERNET IT DEPT 3/12-4/11/22 101-1800-43321	03/12/2022 pziemer	03/23/2022	1,108.45	1,108.45	Open	N 03/23/2022
	TELEPHONE			1,108.45			
21017902/ADM 70528	CONSOLIDATED TELEPHONE CO 3/12-4/11 ADMIN PHONES 101-1400-43321	03/12/2022 pziemer	03/23/2022	4.27	4.27	Open	N 03/23/2022
	TELEPHONE			4.27			
21017902/ENG 70529	CONSOLIDATED TELEPHONE CO 3/12-4/11 ENG PHONES/INTERNET 101-1700-43321	03/12/2022 pziemer	03/23/2022	55.11	55.11	Open	N 03/23/2022
	TELEPHONE			1.81			
	TELEPHONE			53.30			
21017902/CD 70530	CONSOLIDATED TELEPHONE CO 3/12-4/11 COM DEV PHONES 101-2400-43321	03/12/2022 pziemer	03/23/2022	2.32	2.32	Open	N 03/23/2022
	TELEPHONE			1.79			
	TELEPHONE			0.53			
21017902/TRANSIT 70531	CONSOLIDATED TELEPHONE CO 3/12-4/11 TRANSIT PHONES	03/12/2022 pziemer	03/23/2022	10.26	10.26	Open	N 03/23/2022

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	203-9000-43321	TELEPHONE		10.26			
21017902/PD 70532	CONSOLIDATED TELEPHONE CO 3/12-4/11 POLICE DEPT PHONES	03/12/2022 pziemer	03/23/2022	134.58	134.58	Open	N 03/23/2022
	225-2120-43321	TELEPHONE		115.83			
	225-2120-43309	COMPUTER TECHNICAL SUPPORT		18.75			
21017902/FD 70533	CONSOLIDATED TELEPHONE CO 3/12-4/11 FIRE DEPT PHONES/INTERNET	03/12/2022 pziemer	03/23/2022	68.75	68.75	Open	N 03/23/2022
	225-2220-43321	TELEPHONE		68.75			
21017902/STREETS 70534	CONSOLIDATED TELEPHONE CO 3/12-4/11 STREET DEPT PHONE/INTERNET	03/12/2022 pziemer	03/23/2022	49.09	49.09	Open	N 03/23/2022
	235-3100-43321	TELEPHONE		49.09			
21022975 70535	CONSOLIDATED TELEPHONE CO ACCT: 00048776-7 - CAMPGROUND CREDIT	03/12/2022 pziemer	03/23/2022	(46.67)	(46.67)	Open	N 03/23/2022
	230-5280-43321	TELEPHONE		(46.67)			
21017902 70551	CONSOLIDATED TELEPHONE CO 3/12-4/11 PARKS PHONE/INTERNET	03/12/2022 pziemer	03/23/2022	49.15	49.15	Open	N 03/23/2022
	230-5200-43321	TELEPHONE		49.15			
	Total for vendor 0125 - CONSOLIDATED TE:			1,435.31	1,435.31		
Vendor 0900 - CUB FOODS BRD:							
TRX: 98 70536	CUB FOODS - BRAINERD WATER - MARCH 22 LNL	03/14/2022 pziemer	03/23/2022	5.98	5.98	Open	N 03/23/2022
	278-6515-43430	MISCELLANEOUS		5.98			
	Total for vendor 0900 - CUB FOODS BRD:			5.98	5.98		
Vendor 1688 - CUSTOM FIRE APP:							
0021204-IN 70516	CUSTOM FIRE APPARATUS INC T21 - FENDER REPAIR	03/03/2022 pziemer	03/23/2022	441.03	441.03	Open	N 03/23/2022
	225-2220-42220	REPAIR & MAINT		441.03			
	Total for vendor 1688 - CUSTOM FIRE APP:			441.03	441.03		
Vendor 0132 - CWC HIGHWAY DEP:							
4901 70406	CWC HIGHWAY DEPT FEB 2022 TRANSIT FUEL	03/01/2022 pziemer	03/23/2022	3,639.51	3,639.51	Open	N 03/23/2022

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	203-9000-42212	MOTOR FUELS		3,639.51			
	Total for vendor 0132 - CWC HIGHWAY DEP:			3,639.51	3,639.51		
Vendor 0133 - CWC RECORDER:							
22-2796							
70467	CWC RECORDER	03/03/2022	03/23/2022	46.00	46.00	Open	N
	WARRANTY DEED RECORDING FEE #967748	pziemer					03/23/2022
	401-9030-43430-21:16	MISCELLANEOUS		46.00			
	Total for vendor 0133 - CWC RECORDER:			46.00	46.00		
Vendor 1859 - ENTERPRISE FM T:							
FBN4419486/ENG							
70506	ENTERPRISE FM TRUST	03/03/2022	03/23/2022	1,359.54	1,359.54	Open	N
	FEB 2022 ENG VEHICLE LEASES	pziemer					03/23/2022
	101-1700-43331	LEASE PAYMENTS		1,068.82			
	101-1940-43331	LEASE PAYMENTS		290.72			
FBN4419486/PD							
70507	ENTERPRISE FM TRUST	03/03/2022	03/23/2022	8,169.44	8,169.44	Open	N
	FEB 2022 PD VEHICLE LEASES	pziemer					03/23/2022
	225-2120-43331	LEASED PAYMENTS		8,169.44			
FBN4419486/FD							
70508	ENTERPRISE FM TRUST	03/03/2022	03/23/2022	1,314.08	1,314.08	Open	N
	FEB 22 FD VEHICLE LEASES	pziemer					03/23/2022
	225-2220-43331	LEASED PAYMENTS		1,314.08			
FBN4419486/PARKS							
70509	ENTERPRISE FM TRUST	03/03/2022	03/23/2022	2,371.71	2,371.71	Open	N
	FEB 22 PARKS VEHICLE LEASES	pziemer					03/23/2022
	230-5200-43331	LEASE PAYMENTS		2,371.71			
FBN4419486/STRT							
70510	ENTERPRISE FM TRUST	03/03/2022	03/23/2022	3,226.60	3,226.60	Open	N
	FEB 22 STREETS VEHICLE LEASES	pziemer					03/23/2022
	235-3100-43331	LEASE PAYMENTS		2,600.59			
	237-3190-43331	LEASE PAYMENTS		626.01			
FBN4419486/CD							
70511	ENTERPRISE FM TRUST	03/03/2022	03/23/2022	357.61	357.61	Open	N
	FEB 22 CD VEHICLE LEASES	pziemer					03/23/2022
	101-2400-43331	LEASE EXPENSE		357.61			
	Total for vendor 1859 - ENTERPRISE FM T:			16,798.98	16,798.98		

Vendor 4034 - ERICKSON, WAYNE:

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IMP 19-02 70554	ERICKSON, WAYNE TEMPORARY CONSTRUCTION EASEMENT 401-1902-43300	03/01/2022 pziemer	03/23/2022	110.00 110.00	110.00	Open	N 03/23/2022
	PROFESSIONAL SERVICES			110.00			
	Total for vendor 4034 - ERICKSON, WAYNE:			110.00	110.00		

Vendor 3320 - ESSENTIA HEALTH:

800007080/11/30/21

70519	ESSENTIA HEALTH 11/30/21 PRE-EMPLOYMENT TESTING/PHYSpziemer 235-3100-43430 230-5200-43430 260-9020-43324	12/31/2021 pziemer	03/23/2022	349.00 116.00 183.00 50.00	349.00	Open	N 12/31/2021
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800007080-1/3/22

70520	ESSENTIA HEALTH 1/3/22 PRE-EMPLOYMENT TESTING/PHYSICSpziemer 225-2120-43300 260-9020-43324	01/03/2022 pziemer	03/23/2022	150.00 125.00 25.00	150.00	Open	N 03/23/2022
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800007080/1/31/22

70521	ESSENTIA HEALTH 1/31/22 PRE-EMPLOYMENT TESTING/PHYSI(pziemer 260-9020-43324	01/31/2022 pziemer	03/23/2022	25.00 25.00	25.00	Open	N 03/23/2022
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800007080-2/28/22

70522	ESSENTIA HEALTH 2/28/22 PRE-EMPLOYMENT TESTING/PHYSI(pziemer 101-1400-43300	03/01/2022 pziemer	03/23/2022	125.00 125.00	125.00	Open	N 03/23/2022
	Total for vendor 3320 - ESSENTIA HEALTH:			649.00	649.00		

Vendor 1815 - F.I.R.E. CROSSL:

5464

70495	F.I.R.E. CROSSLAKE EMS REFRESHER 225-2220-43330	03/07/2022 pziemer	03/23/2022	500.00 500.00	500.00	Open	N 03/23/2022
	PROFESSIONAL DEVELOPMENT			500.00			
	Total for vendor 1815 - F.I.R.E. CROSSL:			500.00	500.00		

Vendor 0170 - FASTENAL COMPAN:

MNBAX252430

70405	FASTENAL COMPANY FRONT PLOW CHAIN, BULK 235-3125-42220	03/04/2022 pziemer	03/23/2022	244.50 244.50	244.50	Open	N 03/23/2022
	REPAIR & MAINT			244.50			

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MNBAX252218 70411	FASTENAL COMPANY HARD HATS (6) - EMPLOYEE EQUIPMENT 230-5200-42210	02/25/2022 pziemer	03/23/2022	141.29 141.29	141.29	Open	N 03/23/2022
MNBAX252526 70512	FASTENAL COMPANY WEIGHT LIMIT SIGN HARDWARE 235-3170-42210	03/10/2022 pziemer	03/23/2022	19.25 19.25	19.25	Open	N 03/23/2022
Total for vendor 0170 - FASTENAL COMPAN:				405.04	405.04		

Vendor 0486 - FERGUSON ENTERP:

9115677 70563	FERGUSON ENTERPRISES INC VANDALISM REPAIR - PARTITION DOORS G 230-5200-42220	03/08/2022 pziemer	03/23/2022	995.00 995.00	995.00	Open	N 03/23/2022
Total for vendor 0486 - FERGUSON ENTERP:				995.00	995.00		

Vendor 0071 - FORUM COMMUNICA:

MP3161230222/CD 70491	FORUM COMMUNICATIONS COMPANY NOH - EDA MEETING 295-6510-43350	02/28/2022 pziemer	03/23/2022	59.07 59.07	59.07	Open	N 03/23/2022
MP3161230222/ENG 70513	FORUM COMMUNICATIONS COMPANY FEB 22 LEGAL - RFB 1902 401-1902-43350	02/28/2022 pziemer	03/23/2022	229.59 229.59	229.59	Open	N 03/23/2022
Total for vendor 0071 - FORUM COMMUNICA:				288.66	288.66		

Vendor 1967 - FRONTIER PRECIS:

248698 70452	FRONTIER PRECISION INC SERVICING TOTAL STATIONS FOR SURVEYI 401-9030-43430	03/07/2022 pziemer	03/23/2022	810.00 810.00	810.00	Open	N 03/23/2022
248682 70453	FRONTIER PRECISION INC SERVICES ON TOTAL STATIONS FOR SURVEY 401-9030-43430	03/07/2022 pziemer	03/23/2022	810.00 810.00	810.00	Open	N 03/23/2022
Total for vendor 1967 - FRONTIER PRECIS:				1,620.00	1,620.00		

Vendor 0008 - GENERATOR POWER:

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25620 70496	GENERATOR POWER SYSTEMS GENERATOR REPAIRS 225-2220-42220	03/04/2022 pziemer	03/23/2022	187.50 187.50	187.50	Open	N 03/23/2022
	REPAIR & MAINT			187.50			
	Total for vendor 0008 - GENERATOR POWER:			187.50	187.50		
Vendor 0200 - HEARTLAND ANIMA:							
FEB 2022 70418	HEARTLAND ANIMAL RESCUE FEB 22 BOARDING/ADMIN FEE 225-2700-43430	02/28/2022 pziemer	03/23/2022	2,374.00	2,374.00	Open	N 03/23/2022
	MISCELLANEOUS			562.00			
	225-2700-43300	PROFESSIONAL SERVICES		1,812.00			
	Total for vendor 0200 - HEARTLAND ANIMA:			2,374.00	2,374.00		
Vendor 0209 - HEARTLAND TIRE:							
3030978 70504	HEARTLAND TIRE INC. SQD 429 - TIRE REPAIR 225-2120-42221	03/10/2022 pziemer	03/23/2022	37.55	37.55	Open	N 03/23/2022
	SQUAD CAR REPAIR SUPPLIES			37.55			
	Total for vendor 0209 - HEARTLAND TIRE:			37.55	37.55		
Vendor 0203 - HOLDEN ELECTRIC:							
66136 70417	HOLDEN ELECTRIC OUTDOOR EXTERIOR LIGHTS - STREET LIGHTS 400-9050-45510	03/04/2022 pziemer	03/23/2022	3,750.00	3,750.00	Open	N 03/23/2022
	CAPITAL - LAND			3,750.00			
	Total for vendor 0203 - HOLDEN ELECTRIC:			3,750.00	3,750.00		
Vendor 3517 - ISD #181 BRAINE:							
CE220301AR 70470	ISD #181 BRAINERD PUBLIC SCHOOLS 1ST QTR 22 RECREATION PROGRAMMING 230-5200-43300	03/09/2022 pziemer	03/23/2022	3,250.00	3,250.00	Open	N 03/23/2022
	PROFESSIONAL SERVICES			3,250.00			
	Total for vendor 3517 - ISD #181 BRAINE:			3,250.00	3,250.00		
Vendor 3874 - JEREMY FYLE:							
32447 70409	ADVANCED DRAIN CLEANING INC HYDRO FLUSH 2 FLOOR DRAIN LINES 237-3190-42220	02/28/2022 pziemer	03/23/2022	205.00	205.00	Open	N 03/23/2022
	REPAIR & MAINT			205.00			

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32467 70465	ADVANCED DRAIN CLEANING INC 721 CHARLES ST - HYDRO JET THAW 237-3190-42220	03/02/2022 pziemer	03/23/2022	275.00	275.00	Open	N 03/23/2022
	REPAIR & MAINT			275.00			
	Total for vendor 3874 - JEREMY FYLE:			480.00	480.00		

Vendor 0082 - KELLY'S SERVICE:

2865 70544	KELLY'S SERVICE SQD 431 - CAR BATTERIES 225-2120-42221	03/10/2022 pziemer	03/23/2022	354.90	354.90	Open	N 03/23/2022
	SQUAD CAR REPAIR SUPPLIES			354.90			
	Total for vendor 0082 - KELLY'S SERVICE:			354.90	354.90		

Vendor 0220 - KENNEDY & GRAVE:

166316 70546	KENNEDY & GRAVEN SERVICES THROUGH 1/31/22 295-0000-20600	03/01/2022 pziemer	03/23/2022	304.00	304.00	Open	N 03/23/2022
	DEPOSITS PAYABLE - P&D			154.00			
	DEPOSITS PAYABLE - COUNTRY MANOR			150.00			
	Total for vendor 0220 - KENNEDY & GRAVE:			304.00	304.00		

Vendor 4036 - KUHN, DALE:

19-02 70558	KUHN, DALE CUYUNA LAKES STATE TRAIL 19-02 TEMP (pziemer 401-1902-43300	03/16/2022 pziemer	03/23/2022	658.00	658.00	Open	N 03/23/2022
	PROFESSIONAL SERVICES			658.00			
	Total for vendor 4036 - KUHN, DALE:			658.00	658.00		

Vendor 0223 - L & M STEEL:

035243 70414	L & M STEEL SNOW BLOWER SKID STEEL 235-3125-42220	03/03/2022 pziemer	03/23/2022	21.45	21.45	Open	N 03/23/2022
	REPAIR & MAINT			21.45			
035207 70526	L & M STEEL TUBE 235-3125-42220	03/01/2022 pziemer	03/23/2022	160.94	160.94	Open	N 03/23/2022
	REPAIR & MAINT			160.94			
	Total for vendor 0223 - L & M STEEL:			182.39	182.39		

Vendor 2058 - LAKES AREA HUMA:

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896 70407	LAKES AREA HUMAN RESOURCE ASSN 2022 ANNUAL MEMBERSHIP DUES - K. SCHLpziemer 101-1400-43433	03/01/2022	03/23/2022	162.50	162.50	Open	N 03/23/2022
	DUES & SUBSCRIPTIONS			162.50			
	Total for vendor 2058 - LAKES AREA HUMA:			162.50	162.50		
Vendor 0313 - LAKES AREA SENI:							
MARCH 2022 70445	LAKES AREA SENIOR CENTER MAR 22 LEVY PAYMENT 101-9200-43461	03/04/2022 pziemer	03/23/2022	8,895.67	8,895.67	Open	N 03/23/2022
	REMIT SENIOR CITIZEN LEVY			8,895.67			
	Total for vendor 0313 - LAKES AREA SENI:			8,895.67	8,895.67		
Vendor 0233 - LMC - UNIV AVE:							
361738 70459	LEAGUE OF MN CITIES 2022 SAFETY & LOSS - SCHUBERT/BOSE pziemer 101-1400-43330	03/08/2022	03/23/2022	40.00	40.00	Open	N 03/23/2022
	PROFESSIONAL DEVELOPMENT			40.00			
	Total for vendor 0233 - LMC - UNIV AVE:			40.00	40.00		
Vendor 0232 - LMCIT-BERKLEY:							
10002612/2ND INSTL 70460	LEAGUE MN CITIES INS TRUS WORK COMP CITY SHARE 2ND INSTALLMENT pziemer 280-0000-41150	03/04/2022	03/23/2022	66,264.75	66,264.75	Open	N 03/23/2022
	WORKERS COMP			54,745.00			
	WORKERS COMP			18.50			
	WORKERS COMP			11,501.25			
	Total for vendor 0232 - LMCIT-BERKLEY:			66,264.75	66,264.75		
Vendor 0237 - LOCATORS - SUPP:							
0298021-IN 70420	LOCATORS - SUPPLIES INC METAL LOCATOR 238-3160-42220	03/03/2022 pziemer	03/23/2022	841.28	841.28	Open	N 03/23/2022
	REPAIR & MAINT			841.28			
	Total for vendor 0237 - LOCATORS - SUPP:			841.28	841.28		
Vendor 2141 - M&M EXPRESS SAL:							
362945 70497	M&M EXPRESS SALES & SERVICE CHAINSAW REPAIRS 225-2220-42220	03/02/2022 pziemer	03/23/2022	51.98	51.98	Open	N 03/23/2022
	REPAIR & MAINT			51.98			
	Total for vendor 2141 - M&M EXPRESS SAL:			51.98	51.98		

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
Vendor 0239 - MACQUEEN EQUIPM:							
P40302 70415	MACQUEEN EQUIPMENT INC PIRANHA 200 237-3190-42220	03/03/2022 pziemer	03/23/2022	471.90 471.90	471.90	Open	N 03/23/2022
	REPAIR & MAINT						
W09513 70448	MACQUEEN EQUIPMENT INC VACTOR REMOTE REPAIR 237-3190-42220	03/07/2022 pziemer	03/23/2022	1,009.54 1,009.54	1,009.54	Open	N 03/23/2022
	REPAIR & MAINT						
	Total for vendor 0239 - MACQUEEN EQUIPM:			1,481.44	1,481.44		
Vendor 0247 - MED COMPASS INC:							
40880 70500	MED COMPASS INC FF MEDICAL/HEARING TESTS 225-2220-43300	02/28/2022 pziemer	03/23/2022	4,830.00 4,830.00	4,830.00	Open	N 03/23/2022
	PROFESSIONAL SERVICES						
	Total for vendor 0247 - MED COMPASS INC:			4,830.00	4,830.00		
Vendor 2392 - MENARDS:							
70797 70468	MENARDS 2' STEP LADDER 235-3100-42220	03/09/2022 pziemer	03/23/2022	49.99 49.99	49.99	Open	N 03/23/2022
	REPAIR & MAINT						
70941 70502	MENARDS OFFICE WINDOW BLINDS - STREETS 235-3100-42200	03/11/2022 pziemer	03/23/2022	69.98 69.98	69.98	Open	N 03/23/2022
	OFFICE SUPPLIES						
	Total for vendor 2392 - MENARDS:			119.97	119.97		
Vendor 0889 - MENARDS - BAXTE:							
70319 70403	MENARDS - BAXTER SHOP SUPPLIES 230-5200-42220	03/01/2022 pziemer	03/23/2022	5.58 5.58	5.58	Open	N 03/23/2022
	REPAIR & MAINT						
70515 70458	MENARDS - BAXTER 1X8-6' #2 BOARD-MMP 230-5200-42220	03/04/2022 pziemer	03/23/2022	7.98 7.98	7.98	Open	N 03/23/2022
	REPAIR & MAINT						
	Total for vendor 0889 - MENARDS - BAXTE:			13.56	13.56		
Vendor 0669 - MICKEY'S PIZZA:							

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506303 70561	MICKEY'S PIZZA - J&T FOOD SERVICE MARCH 22 LUNCH AND LEARN 278-6515-43430	03/15/2022 pziemer	03/23/2022	386.59	386.59	Open	N 03/23/2022
	MISCELLANEOUS			386.59			
	Total for vendor 0669 - MICKEY'S PIZZA:			386.59	386.59		
Vendor 3394 - MIDWEST MACHINE:							
9056575 70525	MIDWEST MACHINERY CO HOSE, WOODCUTTER OIL 230-5200-42220	03/10/2022 pziemer	03/23/2022	17.76	17.76	Open	N 03/23/2022
	REPAIR & MAINT			17.76			
	Total for vendor 3394 - MIDWEST MACHINE:			17.76	17.76		
Vendor 0254 - MILLS MOTORS IN:							
563910 70498	MILLS MOTORS INC T4 SHOCKS, OIL PAN GASKET 225-2220-42220	03/03/2022 pziemer	03/23/2022	1,189.05	1,189.05	Open	N 03/23/2022
	REPAIR & MAINT			1,189.05			
	Total for vendor 0254 - MILLS MOTORS IN:			1,189.05	1,189.05		
Vendor 0267 - MN POLLUTION CO:							
2022 - LARDY 70485	MN POLLUTION CONTROL AGENCY C.LARDY COLLECTION SYSTEMS OPERATOR 237-3190-43330	03/10/2022 pziemer	03/23/2022	55.00	55.00	Open	N 03/23/2022
	PROFESSIONAL DEVELOPMENT			55.00			
2022 - LARDY REG 70486	MN POLLUTION CONTROL AGENCY COLLECTIONS SYSTEMS REGISTRATION - 2 237-3190-43330	03/10/2022 pziemer	03/23/2022	300.00	300.00	Open	N 03/23/2022
	PROFESSIONAL DEVELOPMENT			300.00			
	Total for vendor 0267 - MN POLLUTION CO:			355.00	355.00		
Vendor 1153 - NORTHLAND ARBOR:							
MARCH 2022 70446	NORTHLAND ARBORETUM MAR 2022 LEVY PAYMENT 101-9200-43462	03/04/2022 pziemer	03/23/2022	8,895.67	8,895.67	Open	N 03/23/2022
	REMIT ARBORETUM LEVY			8,895.67			
	Total for vendor 1153 - NORTHLAND ARBOR:			8,895.67	8,895.67		
Vendor 4035 - NORTHPOINT EMERGENCY TRAINING:							
000013 70559	NORTHPOINT EMERGENCY TRAINING EMT TRAINING	03/14/2022 pziemer	03/23/2022	1,750.00	1,750.00	Open	N 03/23/2022

Inv Num Inv Ref#	Vendor Description	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
	GL Distribution						
	225-2220-43330	PROFESSIONAL DEVELOPMENT		1,750.00			
	Total for vendor 4035 - NORTHPOINT EMERGENCY TRAINING:			1,750.00	1,750.00		
Vendor 0284 - OFFICE SHOP:							
1108891-0 70408	OFFICE SHOP	03/04/2022	03/23/2022	44.20	44.20	Open	N
	CORK BOARD - ASST. HR OFFICE	pziemer					03/23/2022
	101-1940-42200	OFFICE SUPPLIES		44.20			
1108841-0 70440	OFFICE SHOP	03/03/2022	03/23/2022	152.30	152.30	Open	N
	CALCULATOR/FOLDERS	pziemer					03/23/2022
	101-1940-42200	OFFICE SUPPLIES		152.30			
1108841-1 70441	OFFICE SHOP	03/04/2022	03/23/2022	22.07	22.07	Open	N
	SCISSORS/LETTER OPENER	pziemer					03/23/2022
	101-1940-42200	OFFICE SUPPLIES		22.07			
1109027-0 70457	OFFICE SHOP	03/08/2022	03/23/2022	102.47	102.47	Open	N
	CALCULATOR - HR ASST.	pziemer					03/23/2022
	101-1940-42200	OFFICE SUPPLIES		102.47			
1109028-0 70489	OFFICE SHOP	03/08/2022	03/23/2022	249.00	249.00	Open	N
	HR OFFICE CHAIR	pziemer					03/23/2022
	101-1940-42200	OFFICE SUPPLIES		249.00			
	Total for vendor 0284 - OFFICE SHOP:			570.04	570.04		
Vendor 2137 - O'REILLY AUTOMO:							
1647-104265 70404	O'REILLY AUTOMOTIVE STORES INC.	03/01/2022	03/23/2022	61.60	61.60	Open	N
	MOTOR-OIL/FILTER	pziemer					03/23/2022
	230-5200-42220	REPAIR & MAINT		61.60			
1647-105606 70466	O'REILLY AUTOMOTIVE STORES INC.	03/08/2022	03/23/2022	70.28	70.28	Open	N
	SQD 443 WIPER BLADES	pziemer					03/23/2022
	225-2120-42221	SQUAD CAR REPAIR SUPPLIES		70.28			
	Total for vendor 2137 - O'REILLY AUTOMO:			131.88	131.88		
Vendor 0291 - PIKE PLUMBING A:							
81129 70487	PIKE PLUMBING AND HEATING	03/02/2022	03/23/2022	401.16	401.16	Open	N
	ROTTED VENT REPAIR	pziemer					03/23/2022
	235-3100-42220	REPAIR & MAINT		401.16			

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Total for vendor 0291 - PIKE PLUMBING A:				401.16	401.16		
Vendor 2487 - RAILROAD MANAGE:							
454850 70438	RAILROAD MANAGEMENT COMPANY LIC#302985 6/2/22-6/1/23 238-3160-43430	02/25/2022 pziemer	03/23/2022	313.34	313.34	Open	N 03/23/2022
	MISCELLANEOUS			313.34			
454851 70439	RAILROAD MANAGEMENT COMPANY LIC# 302986 6/2/22-6/1/23 238-3160-43430	02/25/2022 pziemer	03/23/2022	313.34	313.34	Open	N 03/23/2022
	MISCELLANEOUS			313.34			
Total for vendor 2487 - RAILROAD MANAGE:				626.68	626.68		
Vendor 3768 - SADUSKY RENOVATIONS:							
41 70473	SADUSKY RENOVATIONS INSPECTION SERVICES 2/15-2/25 101-2400-43300	03/06/2022 pziemer	03/23/2022	869.80	869.80	Open	N 03/23/2022
	PROFESSIONAL SERVICES			869.80			
Total for vendor 3768 - SADUSKY RENOVATIONS:				869.80	869.80		
Vendor 1811 - SANDY, PAUL:							
3/16/22 70557	SANDY, PAUL MILEAGE REIMBURSEMENT - CEAM & MNDOT 101-1700-43330	03/16/2022 pziemer	03/23/2022	294.84	294.84	Open	N 03/23/2022
	PROFESSIONAL DEVELOPMENT			294.84			
Total for vendor 1811 - SANDY, PAUL:				294.84	294.84		
Vendor 0317 - SHORT ELLIOTT :							
421128 70413	SHORT ELLIOTT HENDRICKSON IMP 20-07 BRDMN I & I SEWER STUDY 401-9030-43300-20:07	02/21/2022 pziemer	03/23/2022	5,672.50	5,672.50	Open	N 03/23/2022
	PROFESSIONAL SERVICES			5,672.50			
Total for vendor 0317 - SHORT ELLIOTT :				5,672.50	5,672.50		
Vendor 0322 - STREICHERS PROF:							
CM291891 70505	STREICHERS PROF EQUIP 771JZ UNIFORM SHIRT - CREDIT 225-2121-41113	03/07/2022 pziemer	03/23/2022	(56.98)	(56.98)	Open	N 03/23/2022
	UNIFORM ALLOWANCE			(56.98)			
I1556114 70545	STREICHERS PROF EQUIP 716SJ - UNIFORM PANTS	03/09/2022 pziemer	03/23/2022	67.98	67.98	Open	N 03/23/2022

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	GL Distribution 225-2120-41113			67.98			
	UNIFORM ALLOWANCE						
	Total for vendor 0322 - STREICHERS PROF:			11.00	11.00		
Vendor 3692 - TRAF-O-TERIA SYSTEMS:							
17829 70548	TRAF-O-TERIA SYSTEMS CAMPGROUND PAYMENT ENVELOPES 230-5280-42210	03/15/2022 pziemer	03/23/2022	412.71	412.71	Open	N 03/23/2022
	OPERATING SUPPLIES			412.71			
	Total for vendor 3692 - TRAF-O-TERIA SYSTEMS:			412.71	412.71		
Vendor 3155 - TREAS, FIRE REL:							
3/14/22 70517	TREAS, FIRE RELIEF ASSOC SBR REFUND FROM STATE DUE TO FIRE REL 225-0000-20800	03/14/2022 pziemer	03/23/2022	1,000.00	1,000.00	Open	N 03/23/2022
	DUE TO OTHER GOVT UNITS			1,000.00			
	Total for vendor 3155 - TREAS, FIRE REL:			1,000.00	1,000.00		
Vendor 3686 - UHL COMPANY INC:							
67696 70412	UHL COMPANY INC ANNUAL FIRE ALARM MONITORING 101-1940-42220	03/03/2022 pziemer	03/23/2022	360.00	360.00	Open	N 03/23/2022
	REPAIR & MAINT			360.00			
	Total for vendor 3686 - UHL COMPANY INC:			360.00	360.00		
Vendor 3199 - WEX BANK:							
78964069/FD 70476	WEX BANK FEB 2022 FIRE DEPT FUEL 225-2220-42212	02/28/2022 pziemer	03/23/2022	1,197.11	1,197.11	Open	N 03/23/2022
	MOTOR FUELS			1,197.11			
78964069/COM DEV 70477	WEX BANK FEB 2022 COM DEV FUEL 101-2400-42212	02/28/2022 pziemer	03/23/2022	78.48	78.48	Open	N 03/23/2022
	MOTOR FUELS			78.48			
78964069/PARKS 70478	WEX BANK FEB 2022 PARKS DEPT FUEL 230-5200-42212	02/28/2022 pziemer	03/23/2022	1,558.12	1,558.12	Open	N 03/23/2022
	MOTOR FUELS			1,558.12			
78964069/POLICE 70479*	WEX BANK FEB 2022 POLICE DEPT FUEL 225-2120-42212	02/28/2022 pziemer	03/23/2022	4,642.53	4,642.53	Open	N 03/23/2022
	MOTOR FUELS			4,712.06			
	MOTOR FUELS			(69.53)			

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78964069/STRTS							
70480*	WEX BANK	02/28/2022	03/23/2022	12,905.12	12,905.12	Open	N
	FEB 2022 STREET DEPT FUEL	pziemer					03/23/2022
	235-3125-42212	MOTOR FUELS		12,906.10			
	235-3125-42212	MOTOR FUELS		(0.98)			
78964069/ADMIN							
70481	WEX BANK	02/28/2022	03/23/2022	(23.76)	(23.76)	Open	N
	FEB 2022 WEX EDGE REBATE	pziemer					03/23/2022
	101-0000-36299	MISCELLANEOUS REVENUE		(23.76)			
	Total for vendor 3199 - WEX BANK:			20,357.60	20,357.60		
Vendor 3899 - WEX HEALTH INC:							
0001498157-IN							
70514	WEX HEALTH INC	02/28/2022	03/23/2022	40.95	40.95	Open	N
	MONTHLY COBRA BILLING	pziemer					03/23/2022
	101-9200-43300	PROFESSIONAL SERVICES		40.95			
	Total for vendor 3899 - WEX HEALTH INC:			40.95	40.95		
Vendor 1159 - WINNERS TROPHY/:							
11942							
70456	WINNERS TROPHY	03/05/2022	03/23/2022	15.00	15.00	Open	N
	ADULT POND HOCKEY TROPHY	pziemer					03/23/2022
	230-5209-42210	OPERATING SUPPLIES		15.00			
11952							
70474	WINNERS TROPHY	03/09/2022	03/23/2022	55.00	55.00	Open	N
	TOWER AWARD J. BATTERS - BPU	pziemer					03/23/2022
	101-0000-14100	DUE FROM COMPONENT UNIT		55.00			
	Total for vendor 1159 - WINNERS TROPHY/:			70.00	70.00		
Vendor 3906 - YMCA:							
#18							
70455	BRAINERD FAMILY YMCA	03/03/2022	03/23/2022	2,500.00	2,500.00	Open	N
	1ST QTR 2022 PARKS AND REC PROGRAMMI	pziemer					03/23/2022
	230-5200-43300	PROFESSIONAL SERVICES		2,500.00			
	Total for vendor 3906 - YMCA:			2,500.00	2,500.00		
# of Invoices:	150	# Due:	150	Totals:	413,818.62	413,818.62	
# of Credit Memos:	3	# Due:	3	Totals:	(127.41)	(127.41)	
Net of Invoices and Credit Memos:					413,691.21	413,691.21	
* 2 Net Invoices have Credits Totalling:					(70.51)		

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	GL Distribution						

--- TOTALS BY GL DISTRIBUTION ---

101-0000-14100	DUE FROM COMPONENT UNIT	55.00
101-0000-20803	WATERTOWER DONATIONS-CC	598.50
101-0000-22800	OTHER LIABILITIES	3,901.71
101-0000-36299	MISCELLANEOUS REVENUE	(23.76)
101-1110-41150	WORKERS COMP	18.50
101-1400-43300	PROFESSIONAL SERVICES	125.00
101-1400-43321	TELEPHONE	4.27
101-1400-43330	PROFESSIONAL DEVELOPMENT	40.00
101-1400-43433	DUES & SUBSCRIPTIONS	162.50
101-1700-43321	TELEPHONE	1.81
101-1700-43330	PROFESSIONAL DEVELOPMENT	294.84
101-1700-43331	LEASE PAYMENTS	1,068.82
101-1800-42210	OPERATING SUPPLIES	327.28
101-1800-43309	COMPUTER SUPPORT	198.42
101-1800-43321	TELEPHONE	1,108.45
101-1940-42200	OFFICE SUPPLIES	570.04
101-1940-42220	REPAIR & MAINT	890.27
101-1940-43321	TELEPHONE	53.30
101-1940-43331	LEASE PAYMENTS	290.72
101-1940-43381	BPU UTILITIES	1,509.78
101-2400-42212	MOTOR FUELS	78.48
101-2400-43300	PROFESSIONAL SERVICES	869.80
101-2400-43321	TELEPHONE	2.32
101-2400-43331	LEASE EXPENSE	357.61
101-9200-43300	PROFESSIONAL SERVICES	40.95
101-9200-43381	BPU UTILITIES	64.24
101-9200-43460	REMIT COMMUNITY ACTION LEVY	8,895.67
101-9200-43461	REMIT SENIOR CITIZEN LEVY	8,895.67
101-9200-43462	REMIT ARBORETUM LEVY	8,895.67
203-9000-42200	OFFICE SUPPLIES	797.18
203-9000-42212	MOTOR FUELS	8,253.53
203-9000-43321	TELEPHONE	10.26
203-9000-43401	VEHICLE REPAIRS	13,710.82
203-9000-43440	TRANSIT SERVICE CONTRACT PY	83,881.96
211-5500-43381	BPU UTILITIES	1,330.36
211-5505-43430	MISC - COPY MACHINE PYMTS	100.06
225-0000-20800	DUE TO OTHER GOVT UNITS	1,000.00
225-2120-41113	UNIFORM ALLOWANCE	67.98
225-2120-42212	MOTOR FUELS	4,642.53
225-2120-42221	SQUAD CAR REPAIR SUPPLIES	530.40
225-2120-43300	PROFESSIONAL SERVICES	125.00
225-2120-43309	COMPUTER TECHNICAL SUPPORT	18.75
225-2120-43321	TELEPHONE	115.83
225-2120-43331	LEASED PAYMENTS	8,169.44
225-2120-43381	BPU UTILITIES	5,006.63
225-2121-41113	UNIFORM ALLOWANCE	(56.98)
225-2220-42212	MOTOR FUELS	1,197.11
225-2220-42220	REPAIR & MAINT	1,869.56
225-2220-43300	PROFESSIONAL SERVICES	4,830.00
225-2220-43321	TELEPHONE	68.75
225-2220-43330	PROFESSIONAL DEVELOPMENT	2,250.00
225-2220-43331	LEASED PAYMENTS	1,340.92
225-2220-43380	UTILITIES	54.36
225-2220-43381	BPU UTILITIES	3,078.88

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Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
	225-2225-41150	WORKERS COMP		11,501.25			
	225-2700-43300	PROFESSIONAL SERVICES		1,812.00			
	225-2700-43430	MISCELLANEOUS		562.00			
	230-0000-10300	CHANGE FUND		450.00			
	230-5200-42210	OPERATING SUPPLIES		147.75			
	230-5200-42212	MOTOR FUELS		1,558.12			
	230-5200-42220	REPAIR & MAINT		1,273.05			
	230-5200-43300	PROFESSIONAL SERVICES		5,750.00			
	230-5200-43321	TELEPHONE		49.15			
	230-5200-43331	LEASE PAYMENTS		2,371.71			
	230-5200-43381	BPU UTILITIES		5,533.51			
	230-5200-43430	MISCELLANEOUS		183.00			
	230-5209-42210	OPERATING SUPPLIES		15.00			
	230-5280-42210	OPERATING SUPPLIES		412.71			
	230-5280-43321	TELEPHONE		(46.67)			
	235-3100-42200	OFFICE SUPPLIES		69.98			
	235-3100-42220	REPAIR & MAINT		619.63			
	235-3100-43321	TELEPHONE		49.09			
	235-3100-43331	LEASE PAYMENTS		2,600.59			
	235-3100-43381	BPU UTILITIES		24,628.43			
	235-3100-43430	MISCELLANEOUS		312.23			
	235-3125-42212	MOTOR FUELS		12,905.12			
	235-3125-42220	REPAIR & MAINT		744.81			
	235-3170-42210	OPERATING SUPPLIES		19.25			
	236-3180-43381	BPU UTILITIES		36.00			
	237-3190-42220	REPAIR & MAINT		2,086.84			
	237-3190-43330	PROFESSIONAL DEVELOPMENT		355.00			
	237-3190-43331	LEASE PAYMENTS		626.01			
	237-3190-46611	INTEREST PAYMENTS		41,588.62			
	238-3160-42220	REPAIR & MAINT		928.01			
	238-3160-43430	MISCELLANEOUS		626.68			
	260-9020-43324	SAFETY TRAINING/PHYSICALS		100.00			
	278-6515-43430	MISCELLANEOUS		392.57			
	280-0000-41150	WORKERS COMP		54,745.00			
	295-0000-20600	DEPOSITS PAYABLE - P&D		304.00			
	295-6510-43300	PROFESSIONAL SERVICES		30,000.00			
	295-6510-43350	PRINTING/LEGAL PUBLICATION		59.07			
	313-7920-46620	PAYING AGENT FEES		3,100.00			
	400-9050-45510	CAPITAL - LAND		6,349.98			
	401-1003-43380	UTILITIES		319.44			
	401-1901-43300	PROFESSIONAL SERVICES		214.50			
	401-1902-43300	PROFESSIONAL SERVICES		768.00			
	401-1902-43350	LEGAL PUBLICATIONS		229.59			
	401-9030-43300-20:07	PROFESSIONAL SERVICES		5,672.50			
	401-9030-43430	MISCELLANEOUS		1,620.00			
	401-9030-43430-21:16	MISCELLANEOUS		46.00			
	401-9030-43430-22:02	MISCELLANEOUS		8,312.50			

03/16/2022 03:14 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 03/21/2022 - 03/21/2022

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

Page: 24/25

Inv Num Inv Ref#	Vendor Description GL Distribution	Inv Date Entered By	Due Date	Inv Amt	Amt Due	Status	Jrnlized Post Date
--- TOTALS BY FUND ---							
	101 - GENERAL FUND			39,295.86	39,295.86		
	203 - TRANSIT FUND			106,653.75	106,653.75		
	211 - LIBRARY FUND			1,430.42	1,430.42		
	225 - PUBLIC SAFETY FUND			48,184.41	48,184.41		
	230 - PARK & RECREATION FUND			17,697.33	17,697.33		
	235 - STREET & SEWER FUND			41,949.13	41,949.13		
	236 - PARKING LOT FUND			36.00	36.00		
	237 - SANITARY SEWER FUND			44,656.47	44,656.47		
	238 - STORM SEWER FUND			1,554.69	1,554.69		
	260 - AIRPORT FUND			100.00	100.00		
	278 - HEALTHY EMPLOYE INITIATIVE			392.57	392.57		
	280 - PACKAGE INSURANCE FUND			54,745.00	54,745.00		
	295 - EDA FUND			30,363.07	30,363.07		
	313 - SINKING 2011A GO			3,100.00	3,100.00		
	400 - CAPITAL PROJECTS FUND			6,349.98	6,349.98		
	401 - CONSTRUCTION FUND			17,182.53	17,182.53		
--- TOTALS BY DEPT/ACTIVITY ---							
	0000 -			61,030.45	61,030.45		
	1003 - 10:03 DWNTWN MAIN CNTRACT			319.44	319.44		
	1110 - MAYOR & COUNCIL			18.50	18.50		
	1400 - ADMINISTRATION			331.77	331.77		
	1700 - ENGINEERING			1,365.47	1,365.47		
	1800 - IT/GIS			1,634.15	1,634.15		
	1901 - 19:01 NW 4TH STREET IMPR			214.50	214.50		
	1902 - 19:02 CLST CONNECTION			997.59	997.59		
	1940 - CITY HALL			3,314.11	3,314.11		
	2120 - POLICE DEPARTMENT			18,676.56	18,676.56		
	2121 - COMMUNITY SERVICE			(56.98)	(56.98)		
	2220 - FIRE DEPARTMENT			14,689.58	14,689.58		
	2225 - PAID ON-CALL FIRE DEPT			11,501.25	11,501.25		
	2400 - COMMUNITY DEVL/INSPECTION			1,308.21	1,308.21		
	2700 - ANIMAL CONTROL			2,374.00	2,374.00		
	3100 - S & S MAINTENANCE			28,279.95	28,279.95		
	3125 - SNOW REMOVAL			13,649.93	13,649.93		
	3160 - STORM SEWER EXPENSE			1,554.69	1,554.69		
	3170 - TRAFFIC CONTROL			19.25	19.25		
	3180 - PARKING LOTS EXPENSE			36.00	36.00		
	3190 - SANITARY SEWER EXPENSE			44,656.47	44,656.47		
	5200 - PARK MAIN/ADMINISTRATION			16,866.29	16,866.29		
	5209 - POND HOCKEY PROGRAM			15.00	15.00		
	5280 - CAMPGROUND			366.04	366.04		

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User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 03/21/2022 - 03/21/2022

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

Page: 25/25

Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnlized
Inv Ref#	Description	Entered By					Post Date
GL Distribution							
--- TOTALS BY DEPT/ACTIVITY ---							
	5500 - LIBRARY-BUDGETED			1,330.36	1,330.36		
	5505 - TAXABLE FEES			100.06	100.06		
	6510 - ECONOMIC DEVELOPMENT AUTH			30,059.07	30,059.07		
	6515 - HEALTHY EMPLOYE INITIATIVE			392.57	392.57		
	7920 - SINKING 2011A GO			3,100.00	3,100.00		
	9000 - TRANSIT FUND			106,653.75	106,653.75		
	9020 - AIRPORT M & O			100.00	100.00		
	9030 - CONSTRUCTION PROJ-MISC			15,651.00	15,651.00		
	9050 - CAPITAL PROJECTS-MISC			6,349.98	6,349.98		
	9200 - CITY-WIDE			26,792.20	26,792.20		

Pursuant to due call and notice thereof, the regular meeting of the Brainerd City Council was called to order at 7:30 P.M. by Council President Bevans.

Upon roll call, the following members were noted as present: Stenglein, Erickson, O'Day, Johnson, Pritschet, and Bevans. Mayor Badeaux was also noted as present. Member Stunek was noted as absent.

Council President Bevans opened the meeting with the Pledge of Allegiance to the flag.

MOVED AND SECONDED BY COUNCIL MEMBERS PRITSCHET AND O'DAY, DULY CARRIED, TO APPROVE THE AGENDA.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND ERICKSON TO APPROVE THE CONSENT CALENDAR.

- A. **Approval of Bills- Approved**
- B. **Approval of the Minutes of the City Council Code Enforcement Workshop held on February 28th, 2022- Approved**
- C. **Approval of Minutes of the Regular City Council Meeting held on February 22nd, 2022- Approved**
- D. **Approval of Licenses- Approved**
- E. **Department Activity Reports- Approved**

Upon roll call, Council Members Stenglein, Erickson, O'Day, Johnson, Pritschet, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Community Member of the Month

Mayor Badeaux introduced the February Community Member of the Month, Dawn Stienka, new Coco Moon owner. He stated that she is receiving the award for her dedication to downtown and continuing a long-standing businesses. He noted the importance of succession planning for businesses like Coco Moon.

Conduct Dangerous Dog Hearing

City Administrator Bergman reviewed the previous dangerous dog hearing regarding the dogs co-owned by Ms. Blakemore and Mr. Scott, stating that the Council's decision was that the animals were not allowed in city limits after the hearing, giving them 7 days to remove the dogs permanently. On February 24th, an incident at Ms. Blakemore's residence involving the same dogs revealed that the dogs had been back several times. Administrator Bergman highlighted City Code section 900.27 which states that if an owner of an animal has subsequently violated the provision with the same animal, the animal must be seized by the Enforcement Officer. The owner may request a hearing as Ms. Blakemore has done. If Council finds that the provisions from the previous dangerous dog hearings has been violated, the animals shall be destroyed in a proper and humane way.

City Attorney Langel stated that the scope of the hearing is very narrow. The question is whether or not these 3 dogs were back in the city limits. After this decision, section 900.27 of the City Code determines what happens next.

Mike O'Brien, 501 Laurel St, City Animal Control Officer, stated he received a call from dispatch on February 24th about dogs involved in a fight at an address in northeast he recognized as Ms. Blakemore's. He informed dispatch that these dogs were declared dangerous previously and to use caution. Mr. O'Brien seized all 3 dogs from the owner after the owner admitted that the animals had been in the City a number of times since the hearing. It is unclear if anyone was directly harmed by the dogs on February 24th.

The Chair opened the public hearing at 7:43 p.m.

No one came forward.

The chair closed the public hearing at 7:45 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO DECLARE THAT THE COUNCIL'S ORDER WAS VIOLATED.

Council Member O'Day stated that making this decision does not feel good as a dog lover but it is a necessary decision for the safety of all. It is not the dogs fault that the owner's chose not to follow council directives.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STENGLEIN, DULY CARRIED, TO FOLLOW THE CITY CODE 900.27, SUBD. 4 FINDING THE OWNER SUBSEQUENTLY VIOLATED PROVISIONS FOR WHICH THE ANIMALS WERE SEIZED, ORDER THE DESTRUCTION OF THE ANIMALS IN A PROPER AND HUMANE WAY; FURTHER THE OWNER SHALL PAY THE COSTS OF CONFINING THE ANIMALS.

Council Committee Reports

Safety and Public Works

Approve Event/Street Application- 2022 St. Patrick's Day Parade- Approved

Committee Chair O'Day stated that this is the annual parade by Brainerd Community Action that is back after 2 years.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET, DULY CARRIED, TO APPROVE EVENT/STREET CLOSURE APPLICATION UNDER THE CONDITIONS THAT THE APPLICANT SUBMIT TRAFFIC CONTROL ONE WEEK PRIOR TO THE EVENT AND THAT THE APPLICANT SUBMIT THE REQUIRED INSURANCE PER THE EVENT APPLICATION.

Approve Plans and Specifications and Authorize Bidding- Brainerd Historic Water Tower- Approved

Mayor Badeaux stated that this is a great first step in the long process to preserving the water tower. He thanked the Minnesota Historical Society for their grant funding.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET, DULY CARRIED, TO APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE BIDDING FOR THE HISTORIC WATER TOWER PROJECT.

Create Visual Quality Working Group for 2025 Highway 210 Reconstruction- Approved

Committee Chair O'Day would like the Council President to nominate a working group for visual quality to work with MnDOT staff and consultant engineers on the creation of the Visual Quality Manual for the Highway 210 Corridor.

Council President Bevans recommended Council Members Stenglein, Pritschet, and himself to be on the committee.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON, DULY CARRIED, TO APPOINT MEMBERS BEVANS, STENGLEIN, AND PRITSCHET TO THE VISUAL QUALITY WORKING GROUP FOR THE 2025 HIGHWAY 210 RECONSTRUCTION.

Consideration of Revised Section 320 Amendment Language- Approved

Committee Chair O'Day stated that the additional changes were made to the proposed language as requested by the Council.

Member Johnson stated that he will be voting no due to removing "not to exceed" language for the administrative citations.

COUNCIL MEMBER JOHNSON MOVED TO AMEND THE MOTION TO ADD BACK LANGUAGE TO SUBDIVISION TWO "AN ADMINISTRATIVE OFFENSE MAY BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$600".

The amendment to the motion dies for lack of a second.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET TO APPROVE PROPOSED CHANGES TO SECTION 320 OF THE CITY CODE AND DIRECT STAFF TO DRAFT THE SUBSEQUENT ORDINANCE AMENDMENT.

Council Members Stenglein, Erickson, O'Day, and Pritschet, voted "aye". Council Members Johnson and Bevans voted "nay". The Chair declared the motion carried.

Personnel and Finance Committee

Fire Department Relief Association- 2021 Annual Report Update - Approved

Committee Chair Johnson stated the Relief Association was notified in January of this year that the State made an actuarial change to the rate of return used on the 2021 annual report to 7-8%. Using a rate of return of 7-8% resulted in a required municipal contribution of \$88,273. Mr. Enge spent many hours researching this issue and talking with the state. The State's response was that the City already signed off on the report and nothing else needed to be done. Mr. Enge was allowed to update other assumptions resulting in a required municipal contribution of \$30,252 for 2022. The required municipal contribution is already covered by the amount the City paid to the Relief Association.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO SIGN REVISED ANNUAL REPORTS THAT SHOW A REQUIRED MUNICIPAL CONTRIBUTION FOR 2022 OF \$30,252.

Consider Approval of an Agreement to Provide HR Services to the HRA- Approved

Committee Chair Johnson stated this was talked about during the budgeting process for 2022.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO APPROVE JOINT POWERS AGREEMENT BETWEEN THE CITY OF BRAINERD AND THE BRAINERD HOUSING AND REDEVELOPMENT AUTHORITY FOR HUMAN RESOURCES SERVICES.

Ratify the Hiring of 2022 Engineering Interns- Approved

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO RATIFY THE HIRING OF THE 2022 ENGINEERING INTERNS AS PRESENTED.

Authorize Final Payment on Lum Park Master Plan- Approved

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO AUTHORIZE FINAL PAYMENT FOR THE LUM PARK MASTER PLAN IN THE AMOUNT OF \$2,450.

Consideration of Crow Wing County Historical Society Donation Request- Approved

Committee Chair Johnson stated this is one of the few non-profits a city can give donations to. The City has been donating up to \$500 for the last 15 years.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO AUTHORIZE A \$500 DONATION TO THE CROW WING COUNTY HISTORICAL SOCIETY TO BE PAID OUT OF THE SPECIAL PROJECTS BUDGETED LINE ITEM.

Fire Contract Formula for 2023- Informational

Committee Chair Johnson stated that each year Staff prepares the proposed fire contract calculation for the following year to be used by Townships that contract with Brainerd for fire services. The City will see a decrease in its funding share of about \$747 from the 2022 calculation.

Update on the Request for Funds to be Returned From Lakes Area Media Collaborative- Informational

Committee Chair Johnson stated that the City Council sent a letter on August 16th, 2021, to Lakes Area Media Collaborative requesting refund of unspent funds be returned to the City. Staff has not received a response to the letter.

Unfinished Business

Call for Applicants – Informational:

(Application Information at www.ci.brainerd.mn.us/boards/)

Mayor Recommended: (terms to expire on 12/31 of said year)

Cable TV Advisory Committee – 2 terms (Expire 2022) --1 term (Expire 2024)

Charter Commission – 1 term (Expire 2022) 1-term (Expire 2025)

Rental Dwelling License Board of Appeals – 3 terms (Expire 2022)

Mayor Recommended: (terms to expire 09/07 of said year)

Economic Development Authority (EDA) – 1 term (Expire 2022) – 1 term (Expire 2026)

Council President Recommended: (terms to expire 12/31 of said year)

Planning Commission—1 term (Expire 2023)

Ad Hoc Committees – Applicants Needed

Water Tower Fundraising Committee – Two positions available

New Business

Resolution- Receiving Feasibility Report and Calling Hearing on Improvement 21-10- Greenwood St.-Approved

City Engineer/ Public Works Director Sandy gave a description of the project that will be in conjunction with MnDOT's 371B (S 6th Street) project. This is a state aid project.

MOVED AND SECONDED BY COUNCIL MEMBERS PRITSCHET AND O'DAY TO ADOPT RESOLUTION RECEIVING THE FEASIBILITY REPORT AND SETTING THE PUBLIC HEARING FOR IMPROVEMENT 21-10- GREENWOOD STREET RECONSTRUCTION PROJECT ON APRIL 4TH, 2022 AT 7:30 P.M.

RESOLUTION 07:22

Upon roll call, Council Members Stenglein, Erickson, O'Day, Johnson, Pritschet, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Resolution- Receiving Feasibility Report and Calling Hearing on Improvement 21-12- North Brainerd Reconstruction.-Approved

City Engineer/ Public Works Director Sandy gave a description of the project that will take place this summer. The expense is extensive due to the need to replace storm sewers and other utilities that are from the 1900's as well as the vast number of sidewalks to replace.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND STUNEK TO ADOPT RESOLUTION RECEIVING THE FEASIBILITY REPORT AND SETTING THE PUBLIC

HEARING FOR IMPROVEMENT 21-12- NORTH BRAINERD RECONSTRUCTION PROJECT
ON APRIL 4TH, 2022 AT 7:30 P.M.

RESOLUTION 08:22

Upon roll call, Council Members Stenglein, Erickson, O'Day, Johnson, Pritschet, and Bevans voted "aye". No member voted "nay". The Chair declared the motion carried.

Consideration for Request to Amend Greenhouse Ordinance

Community Development Director Chanski stated Mr. Zelinske had previously submitted a permit to build a greenhouse on a non-contiguous lot in 2020. He is requesting that City Council amend the materials that greenhouses may be made of to include flexible, rolled, material.

Steve Zelinske, Yesterday's Gone, stated that he wants to be able to construct his greenhouse with rolled materials and that he would also like to see the ordinance cover any business with a state license to serve food as for liquor licenses purposes he classifies his establishment as a bar not a restaurant.

Chair Bevans spoke against the motion due to maintenance and upkeep standards not being provided.

COUNCIL MEMBER O'DAY MOVED TO AMEND THE MOTION TO INCLUDE A 3 YEAR MAINTENANCE CHECK.

The amendment to the motion died for lack of a second.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND PRITSCHET TO EDIT THE PROPOSED ZONING CODE TO ALLOW FOR GREENHOUSES TO BE CONSTRUCTED WITH FLEXIBLE, ROLLED MATERIAL; FURTHER THAT GREENHOUSES BE EXTENDED TO INCLUDE ANY BUSINESS WITH A STATE LICENSE TO SERVE FOOD.

Council Members Stenglein, Erickson, O'Day, Johnson, and Pritschet voted "aye". Chair Bevans voted "nay". The Chair declared the motion carried.

Public Forum

The Chair asked for a point of privilege to ask Attorney Langel if during the public forum citizens can discuss an item that was previously on tonight's agenda, in reference to the Dangerous Dog Hearing.

City Attorney Langel stated that it would be up to the Council to determine public value to allow discussion of an agenda item.

The Chair opened public forum at 8:30 p.m.

Angela Blakemore, 515 2nd Ave NE, requested that the Council allow an animal behavior specialist to evaluate her dogs as she believes that they are not dangerous.

Nathan Scott, 515 2nd Ave NE, requested that the Council reconsider their decision as his dogs are not dangerous.

The Chair closed public forum at 8:37 p.m.

Staff Reports

City Engineer/ Public Works Director highlighted that the City of Brainerd applied for \$500,000 grant for Safe Routes to School and was awarded.

Mayors Report

Mayor Badeaux stated that you can still register to enter a float in the St. Patrick's Day parade. The parade is at 1:00 p.m. on Saturday, March 12th. Finally, the Park Board will be starting white board sessions for park master planning.

Council Member Reports

Member O'Day stated that the EDA has finalized economic development services agreements.

Chair Bevans stated that the Northside Residents Association has made their first pitch to the Park Board for improvements to Gregory Park.

Adjourn to Closed Session Pursuant to Minnesota Statute 13D.05, subd. 3(c)(3) to Discuss the Possible Acquisition of Property PID: 41361081 & 41361080

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND O'DAY, DULY CARRIED, TO ADJOURN TO CLOSED SESSION TO DISCUSS POSSIBLE ACQUISITION OF PROPERTY PID: 41361081 & 41361080.

Council adjourned to the closed session at 8:39 p.m.

Council took an 8-minute break prior to the closed session.

Council reconvened at 9:03 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND JOHNSON, DULY CARRIED, FOR BPU TO NEGOTIATE PURCHASE OF LANDS BPU WILL ACQUIRE PID: 41361081 & 41361080; FURTHER THAT GRANT FUNDS NOT BE USED TO DO SO.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY, DULY CARRIED, TO ADJOURN THE MEETING.

The Chair adjourned the meeting at 9:06 p.m.

Jennifer Bergman
City Administrator

RESTORATION & CONSTRUCTION SE

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
2340 197TH ST E	General Commercial	Active	IR724887	12/31/2023	2022-0023	12/31/2022

BRYANS PLUMBING AND HEATING L

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
8218 COUNTY ROAD 14	Plumbing Contractor	Active	PC743426	12/31/2023	2022-0029	12/31/2022

CUSTOM MECHANICAL & SHEET ME

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
12700 PERSIMMAN DR	Mechanical	Active	MB676877	01/01/2024	2022-0054	12/31/2022

INTERIOR RESOURCES DBA BUILDIN

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
26567 E SHORE PL	General Commercial	Active		12/31/2022	2022-0025	12/31/2022

PARROTT CONTRACTING INC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
30090 STATE HWY 93	Excavator	Active		12/31/2022	2022-0018	12/31/2022

QUICK COMFORT HEATING AND CO

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
16314 COUNTY ROAD 1	Mechanical	Active	MB787379	11/01/2023	2022-0055	12/31/2022

Population: All Records

Licensee.DateRegistered Between 3/3/2022 12:00:00 AM AND 3/16/2022 12:00:00 AM

Total Licensees 6



BRainerd POLICE DEPARTMENT MONTHLY REPORT



BESTUL'S BOOYAH AWARD

Bestul's Booyah Award went to Officer Ron Myers for this perfect example of building positive relationships within the department.



T'was the day after Sunday, when all through the place, no pep was to be found, not even a trace. But what to our wondering eyes should appear?
A gift from Officer Ron that made us all cheer!

BOOYAH!



COMMUNITY OUTREACH

HEROES Program – Helping Emergency Responders Obtain Emotional Support

Officers Knisley and Host helped at a HEROES Program event at the NP Center in February. The HEROES Program is a local non-profit organization gathering funding to pay for first responder's therapy, including EMTs, Fire and Rescue, Dispatch, and Law Enforcement.

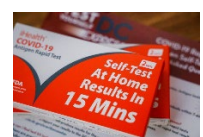


We provide access to quality mental health services to help our heroes heal



Protecting the Community

In February, the Brainerd Police Department partnered with our local health department to become a distribution point for the N99 masks and COVID test kits from the Federal Government. In all, 1800 N99 masks and 360 COVID test kits were provided to individuals in the community at no charge.



EMPLOYEE RECOGNITION

On February 17th, Chief Bestul hosted a recognition ceremony for employees at the Police Department. Congratulations to Officer Larson who received the Award of Commendation, Investigator Boggs who was named Officer of the Year, School Resource Officer Selvestra for receiving the "Best of Bestul's Booyah" award, and Administration Supervisor Julie McCullough who received the Award of Merit.

Officer of the Year

Investigator Boggs was named the 2021 Police Officer of the Year by her peers with honor and appreciation for her commendable and dedicated service.

Award of Commendation

In 2021, Officer Larson responded to a house fire where the homeowner was unable to exit the home on her own. Officer Larson was able to make entry into the smoke-filled home and pull the owner to safety, an act that was characterized by obvious self-sacrifice while in the face of personal danger.

2021 Best of Bestul's Booyah

School Resource Officer Selvestra's commitment to the City of Brainerd and the students of BHS has earned him nine "Bestul's Booyah" nominations. Officer Selvestra won the Booyah award twice in 2021 and was selected by Chief Bestul for the 2021 "Best of Bestul's Booyah" award.

Award of Merit

Administration Supervisor McCullough was recognized for her commitment to Police Department operations. There is no way to describe the number of responsibilities that Julie handles on an average day for the smooth operations of the Police Department. THANK YOU JULIE!

CLEO & Command Academy

Deputy Chief Davis attended a 5 day course for Chief Law Enforcement Officers (CLEO) and their command staff at Camp Ripley. The course provides necessary training that addresses duties and administration that chiefs and high-ranking supervisors use daily.

Mentoring and Coaching in Supervision

Sergeant Pallansch attended virtual training on how mentoring and coaching programs, when used in conjunction with an agency's other formal and informal training, can be a valuable tool to help further the success in individuals. Students learn simple techniques that when appropriately and consistently utilized, can help to further improve performance, speed learning, and increase organizational engagement among your employees and teams. This course is part of the BCA Leadership Development Certificate Program. Those who successfully complete all six courses required for each level in a three-year period earn the BCA Supervision, Middle Management, or Senior Leadership Certificate.

OC Instructor Recertification Course

Officer Myers attended a two hour on-line OC Instructor Recertification course. The course covers how to train department personnel in the deployment and use of OC Aerosol Chemical Agent (Pepper Spray). The course also covers policies in the use and deployment of OC along with current case law regarding the use of force in relation to OC.

Domestic Assault Training

Sergeant Reed, Investigator Boggs, and Officers T. Gleason, Host, Larson, and Judd attended a four hour presentation in Breezy Point hosted by the Crow Wing County Attorney's Office, which included training on domestic assault and criminal sexual misconduct type cases. The training also included a domestic assault victim who spoke with the class and shared her experiences, including her thoughts and feelings on being a victim to give officers awareness from a victim's perspective and how we can do better.

STAFFING & ASSIGNMENTS

A warm welcome to the newest member of our staff, Community Service Officer Janey Ziegler.

Janey started with the department on February 16th. She has a 4-year Criminal Justice degree from the University of North Dakota. She will be attending skills this summer and has plans for a future career in Law Enforcement.



CONDUCT ON PREMISES ACTIVITY REPORT

ICR	Date Reported	Title	Address	Summary
22001755	02/11/22	Conduct on Premises	812 Walnut St	Conduct on premises.
22002614	02/28/22	Conduct on Premises	916 S 8th St	Conduct on premises.

BODY WORN CAMERA DATA REPORT

Month	Number of Videos	Hours of Video	GB of Videos	Average MB per Video	Average Time Length of Videos	Average Number of Videos Per Day
February	1380	283	495	367	12.30 Minutes	49



CITATIONS, PARKING TICKETS, & WRITTEN WARNINGS

February	2022	2021
Citations (Inc. Parking Tickets & Written Warnings)	386	196

277 parking tickets issued in the month of February, with the following dispositions.

7	Dismissed
136	Paid in Full
2	Partial Payments Received
132	No Payment Received

Revenue Recapture Receipts:

2021 Total:	\$ 8,528.62
2022 To Date:	\$ 1,550.00

OVERALL CALLS FOR SERVICE

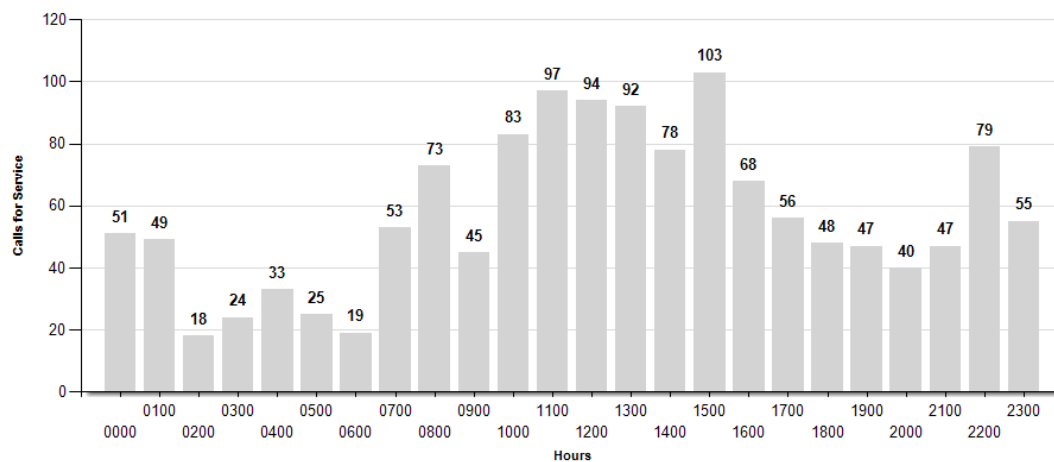
February	2022	2021
Number of Calls for Service	1377	1247



Calls for Service Hourly

2/1/2022 to 2/28/2022

Total Calls: 1411

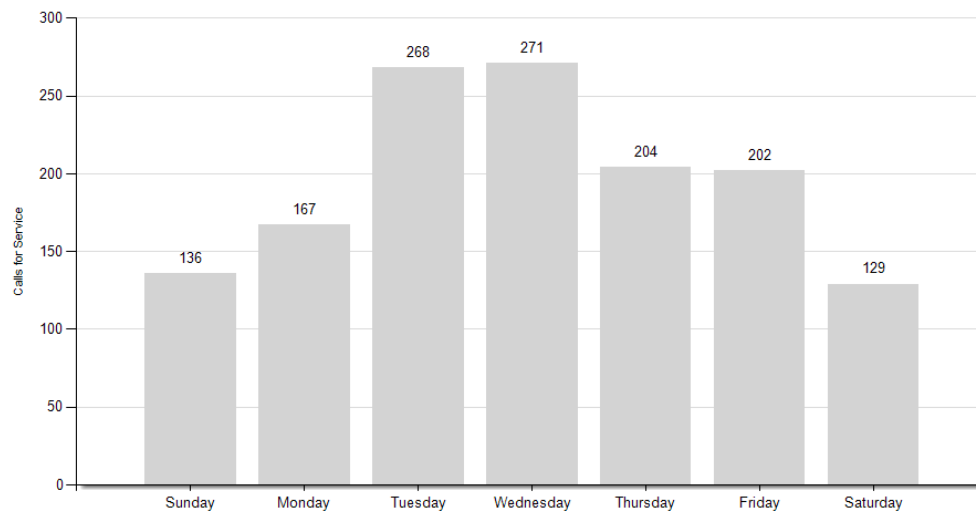


Calls for Service Day Of Week

Start Date: 2/1/2022

End Date: 2/28/2022

Total Calls: 1411



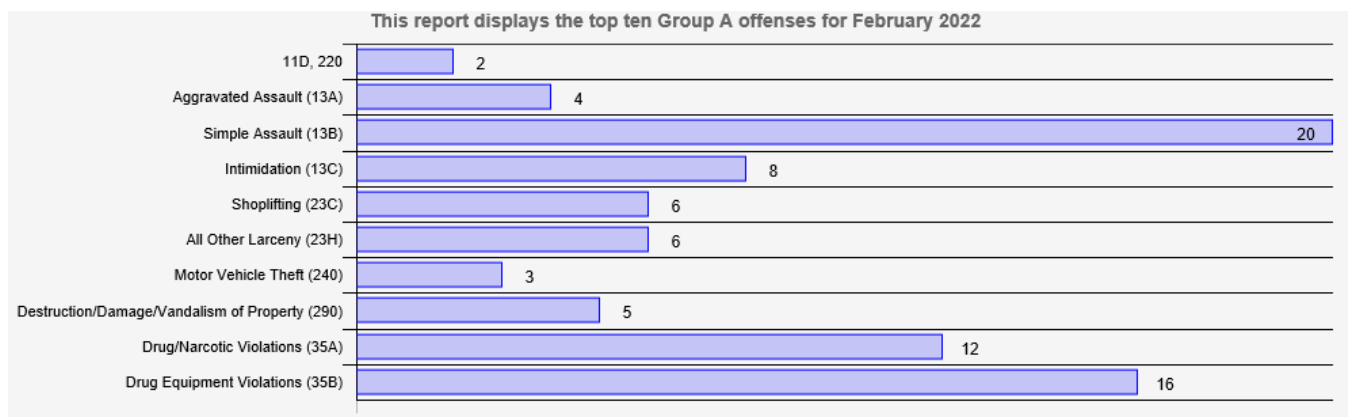
CRIME STATISTICS

February	2022	2021
Group A Offenses Known or Reported to Police	184	258
Group A and B Arrests	112	107

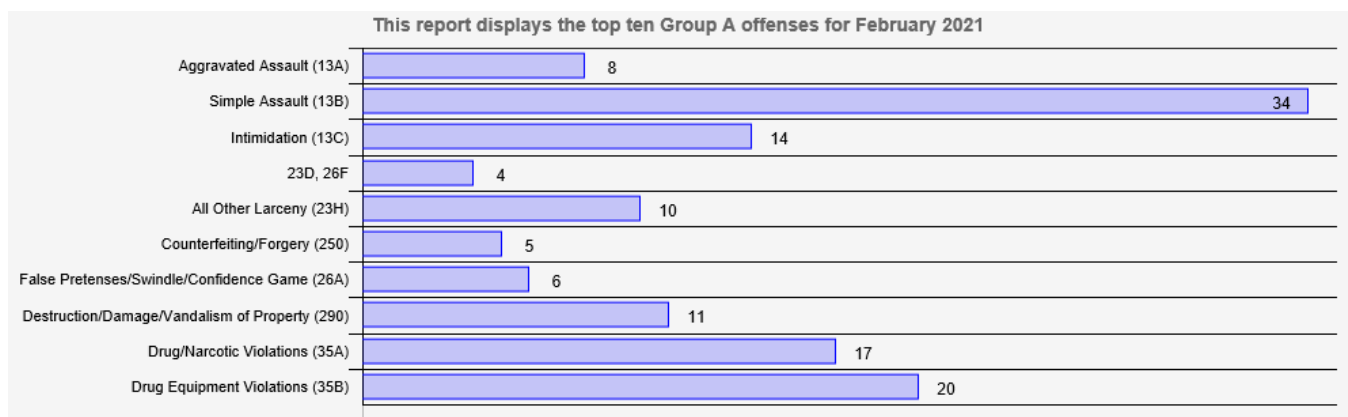
**** Note: 2022 totals do not include case files that have not yet been coded.**

TOP 10 GROUP A OFFENSES

February 2022

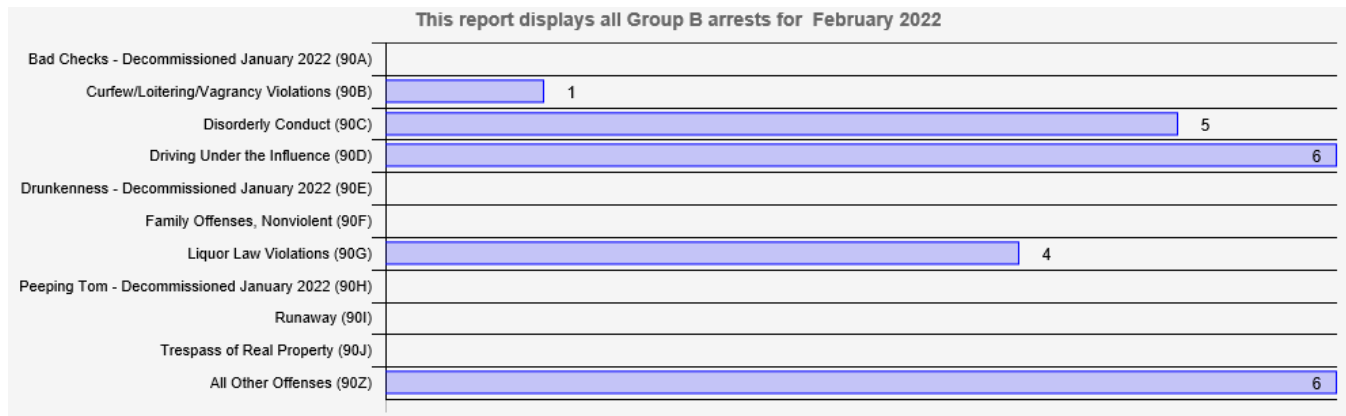


February 2021

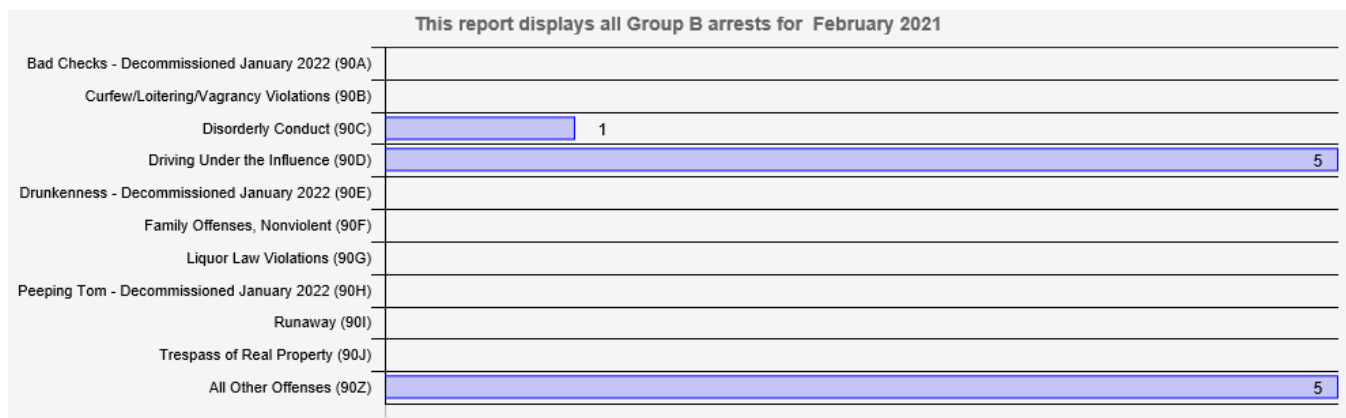


GROUP B ARREST DATA

February 2022



February 2021



CITATIONS, PARKING TICKETS, & WRITTEN WARNINGS

February	2022	2021
Citations (Inc. Parking Tickets & Written Warnings)	386	196

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Revenue Recapture Receipts:

2021 Total:	\$ 8,528.62
2022 To Date:	\$ 1,550.00



City of Brainerd
IT/GIS Department Monthly Report
February 2022

Projects

- New computers computer continue to be setup, a few have been deployed with willing test subjects. More new technologies will be implemented or expanded with this generation of computers including OneDrive (cloud storage), Intune (device management), Azure AD (cloud management).
- PEG (cable TV) – meeting regularly with CLC and vendors to maintain timelines for June 1st go live. Cable TV Advisory Committee met 2/15, review current status/progress.
- Planning technology needs for City Hall Annex – doors, cameras, wifi, network, etc
- Rearranged Administration office spaces (2/4)

Software

- Migrated Microsoft licensing from Office365 to Microsoft365 which includes many additional functions beyond just office software
- NeoGov *Onboard* implementation initial tasks are underway
- BS&A – HR reports, lots of assistance with Building module

Hardware

- Finalized new iPads at Fire Department

Other

- Technical support for numerous meetings – City Council, Park Board, Planning, HRA, EDA, etc
- Capital planning for city hall generator, street dept technology, etc

Statistics

Emails sent: 7,456 (266/day) received 32,521 (1,161/day)

Cisco Secure Endpoint: 3.47M files scanned, 649K IPs scanned

YouTube – City of Brainerd channel: 608 views, 105.5 hours watched

Staff: Added HR Assistant position and a new CSO

MEMO



TO: Mayor and City Council

FROM: David Chanski, Community Development Director

DATE: March 15, 2022

RE: Community Development Director Report

Building

The Community Development Department issued 34 building permits with a total project valuation of \$662,972 in the month of February.

Within the River-to-Rail incentive corridor, 4 permits were issued in January with a total project valuation of \$243,290 and waived \$3,409.68 in permit fees.

*Note: project valuation does not include all projects as some permits, such as residential mechanical permits, have a flat fee and are not based on valuation. Therefore, the listed total project valuation is solely based on the permits whose fees are determined by valuation.

Code Enforcement

The Community Development Department conducted 41 code enforcement inspections in February.

Proposed Ordinance No. 1524 will be going before the City Council on March 21 for its first reading. The ordinance amends Section 320: Administrative Citations. These amendments provide specific guidance for the manner in which code enforcement shall be conducted, the fines for violations of the Code, and the timeline by which violations of the Code shall be corrected.

Planning & Zoning

The final draft of the proposed zoning code is going before the Planning Commission during their March 16 meeting for its formal public hearing. Once the public hearing is conducted, the Commission will make a recommendation to the City Council to adopt the proposed zoning code. A recommendation to adopt it will be going before the City Council in the form of Proposed Ordinance No. 1527 on March 21. This will be the first reading. Should the first reading pass, the Council would conduct the second reading and vote to adopt on April 4. The proposed zoning code would then go into effect on April 11.

Mississippi Landing Trailhead

The Park Board authorized going out to bid for the Mississippi Landing Trailhead Park construction during a special meeting on March 8. The project is scheduled to officially go out for bid on March 18.

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

March 21, 2022

6:45 PM

WebEx Teleconference Call-In Information Call Toll-

Free: 1-844-992-4726

Access Code: 2480 517 5734

1. Resolution- Approving Joint Powers Agreement for Lakes Area Drug Investigative Division and Authorizing Signatures
2. Approve 2022 Bridge Inspection Request for Proposals
3. Approve Construction Cost Share Agreement for Pavement Marking with Crow Wing County
4. Approve Contract Towing Specifications and Authorize Bidding of Services
5. Approve Plans and Specifications and Authorize Bidding- East River Road Improvements with Mississippi Landing Trailhead Project
6. Approve Plans and Specifications and Authorize Bidding- 2022 Sanitary Sewer Collection System Repairs
7. Approve Request for Proposals for Harrison Elementary Oak Street Safe Routes to School Project
8. Resolution- Detour Agreement with the Minnesota Department of Transportation for the South 6th Street Reconstruction Project (SP1814-08)
9. Consideration of Bids and Award of Contract for the NP Center Segment of the Cuyuna Lakes State Trail Project



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Resolution Approving Joint Powers Agreement for LADID and Authorizing Signatures

☐ 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: Chief Mike Bestul	Department: Police
Presenter (Name & Title): Chief Mike Bestul	Estimated Time Needed: 2 minutes
Summary of Issue: The current Lake Area Drug Investigative Division (LADID) Joint Powers Agreement (JPA) involving the Crow Wing County Sheriff's Department, Baxter Police Department and the Brainerd Police Department was approved in 2012. All entities have been involved with updating the JPA for LADID, specifically involving insurance coverage for all entities as it relates to being an active participant in a Drug Investigative Unit. In addition to insurance, clearly defining the Boards duties and responsibilities.	
Alternatives, Options, Effects on Others/Comments: The Joint Powers Agreement has been reviewed and approved by the City Attorney.	
Recommended Action/Motion: Request the City Council pass the resolution approving the Joint Powers Agreement with the entities involved as it is outlined in the attached agreement for the Lakes Area Drug Investigative Division and authorize signatures on the documents.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☒ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

R E S O L U T I O N

NO: _____

**RESOLUTION APPROVING THE DETAILS OF THE JOINT POWERS AGREEMENT
REGARDING THE LAKES AREA DRUG INVESTIGATIVE DIVISION (LADID)**

WHEREAS, the City of Brainerd, the City of Baxter and Crow Wing County have agreed to be part of a multi-agency task force identified as the Lakes Area Drug Investigative Division (LADID); and

WHEREAS, LADID has been established for the purpose of coordinating and strengthening efforts to identify, apprehend and prosecute drug related offenders, including but not limited to crimes such as the sale of illegal drugs, possession of illegal drugs and ancillary crime associated therewith; and

WHEREAS, the participants have agreed to enter into a document entitled the Lakes Area Drug Investigative Division Joint Powers Agreement which document shall be made a part hereof, and

WHEREAS, the terms of the Joint Powers Agreement between the City of Brainerd, the City of Baxter and Crow Wing County shall be effective from the date of the JPA signatures effecting the agreement.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Brainerd approves the Joint Powers Agreement between the City of Brainerd, the City of Baxter and Crow Wing County relating to the Lakes Area Drug Investigative Division.

Adopted this 21st day of March, 2022.

KELLY BEVANS
President of the Council

Approved this 21st day of March, 2022.

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

LAKES AREA DRUG INVESTIGATION DIVISION JOINT POWERS AGREEMENT

The parties to this Agreement are government units responsible for enforcing controlled substances and violent crime within their respective jurisdictions. The parties desire to work cooperatively to enforce controlled substance and violent crimes and, for that purpose, are hereby forming the Lakes Area Drug Investigation Division as a joint powers entity. This Agreement is made pursuant to the authority conferred upon the parties by Minnesota Statutes, § 471.59.

The undersigned Governmental Units, in the joint and mutual exercise of their powers, agree as follows:

1. **Name.** The name of the joint powers entity shall be the Lakes Area Drug Investigation Division (LADID).
2. **Definitions:**
 - a. Investigator– means a peace officer employed by a member assigned to the Task Force.
 - b. Board – means the governing Board of the Task Force.
 - c. Fiscal agent – means a governmental unit that is a member of the Task Force and is responsible for administering financial and accounting functions for the Task Force.
 - d. Member – means a governmental unit that is a signatory to this Agreement.
 - e. Task Force – means the Lakes Area Drug Investigation Division.
 - f. Team Leader – Individual in charge of LADID operations on day to day basis.
3. **Members.** The initial members of the Task Force are the following Governmental Units:
 - County of Crow Wing
 - City of Baxter
 - City of Brainerd

- 3.1 The members shall cooperate and use their best efforts to ensure that the various provisions of the Agreement are fulfilled. The members agree to act in good faith to resolve disputes, if any, in an equitable and timely manner and in accordance with the provisions of this Agreement.

4. **Term.**

- 4.1 The term of this Agreement shall commence upon the full execution of this agreement by all the signatories and continue through December 21, 2023, unless terminated earlier pursuant to section 5.7(d) of this Agreement. This Agreement shall be automatically extended for successive two-year terms upon the same terms, conditions, and covenants unless the Task Force is dissolved before the expiration of the initial or subsequent term.
- 4.2 Upon dissolution of the Task Force, the Board shall provide for the distribution of all Task Force funds and assets in the following manner: (1) The Board may determine to sell and liquidate non-monetary assets prior to distribution; (2) Only governmental units that have been members of the Task Force continuously for the 24 months immediately preceding dissolution, or since commencement of this Agreement, whichever is shorter, shall be entitled to share in the distribution; and (3) Assets and funds shall be distributed in proportion to the full-time staffing contributions of each member to the Task Force during the 24 months immediately preceding dissolution, determined by the full-time equivalent contributions of each member for each of the 24 months immediately preceding dissolution. Property owned by members shall be returned to the members upon dissolution. A member whose membership terminates before the dissolution of the Task Force is entitled to the return of its property but is not entitled to any share or portion of Task Force funds or assets.

5. **Governing Board.**

- 5.1 A governing board shall govern the Task Force. Members of this Board will be known as “Directors.” The Chief Law Enforcement Officer (CLEO) from each member, or their designee, shall serve as a Director. There shall be one Director representing the Crow Wing County Attorney’s Office, and there shall also be one Director representing the Crow Wing County Chiefs of Police. This Director shall be a non-member police chief and shall serve a

one-year term which cannot be consecutive to a previous term. This designee shall be selected and appointed by the Board each December. Interested parties shall make it known to the Board before the December meeting.

- 5.2 Directors shall not be deemed employees of nor compensated by the Task Force.
- 5.3 The Board will elect a chair. The Chair will be elected annually. The Chair shall have no more power than any other Director except that the Chair shall: give notice of meetings when scheduled or otherwise called; call meetings to order and provide for their orderly and efficient conduct; provide for the preparation of minutes; and, when authorized by the passage of a motion by Board, execute contracts, agreements, reports, filings, and other documents on behalf of the Task Force.
- 5.4 The Board will delegate operational control over activities to a Task Force Commander.
- 5.5 The Board will delegate financial and administrative oversight to the Task Force Commander, who shall be an employee of the member serving as the fiscal agent for the Task Force.
- 5.6 The Board shall meet quarterly or more frequently as needed. A meeting may be called by any Director or the Task Force Commander with at least 72 hours notice.
- 5.7 It shall require the affirmative vote of at least 75% of the Board to:
 - (a) Approve or amend the budget, subject to the normal budget processes of the signatories;
 - (b) Approve addition of governmental unit to Task Force;
 - (c) Approve the expenditure or distribution of Task Force funds; or to
 - (d) Abolish or dissolve the Task Force.

In all other matters, the Board may act based on the vote of a simple majority. A quorum shall exist, and votes may be taken if a majority of the Directors or their designees are present.

- 5.8 The Board may apply for and receive grants and enter into contracts, including agreements for the purchase and rental of real property, incur expenses and make expenditures necessary and incidental to the effectuation of its purposes and consistent with its powers.
- 5.9 The Board may recommend changes in this Agreement to its members.
- 5.10 The Board may receive real or personal property by grant, devise, or bequest for the use of the Task Force.

- 5.11 The Governing Board shall arrange for an annual audit of confidential funds. The Governing Board is also encouraged to conduct regular audits of the informant files, confidential funds, and seizure paperwork to ensure all task force policies are being followed. The Task Force Commander or designee should conduct frequent internal audits of these same items.

6. Powers and Duties of the Task Force.

- 6.1 To accomplish the objectives herein, all Task Force members shall assign at least one peace officer licensed pursuant to Minnesota Statutes, § 626.84, subd.1, to the Task Force.
- 6.2 A typical assignment to the Task Force should be for a minimum period of three years. However, assignments shall be at the pleasure of both the Task Force Board and the investigator's employing agency and may be terminated at any time.
- 6.3 The Task Force Commander will direct investigative activities based on intelligence provided by the Task Force members, prioritizing mid to upper-level drug dealers and case investigations that directly impact the members' communities.
- 6.4 The Board will appoint a Team Leader.
- 6.5 While assigned to the Task Force, all personnel shall be under the direct supervision and control of the Task Force Commander and/or Team Leader. The Task Force Commander's duties shall include, but not be limited to:
- (a) Guiding and directing the activities of personnel assigned to the Task Force;
 - (b) Establishing goals, priorities, and work assignments;
 - (c) Reviewing and approving reports;
 - (d) Assist in preparing a quarterly financial report;
 - (e) Scheduling assigned personnel;
 - (f) Conduct annual evaluations of all investigators and provide the evaluations and/or input for employee evaluations, if requested to the employing agencies;
 - (g) Allocating overtime work, if necessary;
 - (h) Maintenance of confidential funds in accordance with all applicable laws, policies, and procedures;
 - (i) Proper disbursements and deposits;
 - (j) Bookkeeping and internal audits;

- (k) Maintaining a file(s) containing copies of relevant fund transaction documents.
- 6.6 With Board Member approval, the Task Force Commander may delegate duties outlined in Section 6.5 to the Task Force Team Leader.
- 6.7 The Task Force Commander shall cooperate with other federal, state, and local law enforcement agencies to accomplish the purpose for which the Task Force is organized.
- 6.8 The Governmental Unit serving as the Fiscal Agent shall cause to be made an annual audit of the books and accounts of the Task Force, as well as a yearly audit of internal systems and, shall make and file a report to its members which includes the following information:
 - (a) The financial condition of the Task Force;
 - (b) The status of all Task Force projects;
 - (c) The business transacted by the Task Force;
 - (d) Quarterly financial report;
 - (e) The status and condition of other related systems of the Task Force;
 - (f) Other matters which affect the interests of the Task Force.
- 6.9 The Task Force's books, reports, and records shall be open to inspection by its members at all reasonable times.
- 6.10 The Task Force members may not incur obligations or approve contracts that extend beyond the term of this Agreement or require the expenditure of funds in excess of funds available.
- 6.11 Nothing herein is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting one of the members as the agent, representative, or employee of another member for any purpose or in any manner whatsoever. Personnel assigned to the Task Force by one of the members shall not be considered temporary or permanent employees of any other member for any purpose whatsoever or be entitled to tenure rights or any rights or benefits by way of workers compensation, re-employment insurance, medical and hospital care, sick and vacation leave, severance pay, PERA or any other right or benefit of another member.
- 6.12 The members acknowledge that it is their sole responsibility to provide all salary compensation and fringe benefits to their employees. Benefits may include but are not limited to health care, disability insurance, life insurance, re-employment insurance, FICA, Medicare, and PERA.

7. **Insurance and Indemnification.**

- 7.1 The Task Force will maintain liability coverage with the League of Minnesota Cities Insurance Trust with a limit of at least \$2,000,000 per occurrence, under standard LMCIT liability coverage forms. The costs of this coverage shall be by funds identified by the Board, including local, state, or federal grants or drug forfeiture funds. Alternatively, the Task Force may maintain equivalent private liability insurance coverage. Such coverage may be provided through separate policies for commercial general liability and law enforcement liability. Such private liability insurance policies must comply with the following requirements:
- Each policy shall have a limit of at least \$2,000,000 per occurrence. If the policy contains a general aggregate limit, the general aggregate limit shall not be less than \$2,000,000.
 - The CGL insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, and advertising injury, and contractually assumed liability.
 - Each member, and each member's investigators, employees, and volunteers shall be named as additional covered parties on each policy for all claims arising from Task Force activities or operations.
- 7.2 The Task Force may, in its discretion, procure coverage for auto liability and damage to or loss of property. If the Task Force at any time hires employees, it will immediately acquire and maintain workers' compensation coverage.
- 7.3 The Task Force agrees to defend and indemnify its members for any liability claims arising from Task Force activities or operations and decisions of the Task Force Board to the extent said claims are covered by insurance procured under Section 7. Nothing in this Agreement shall constitute a waiver of the statutory limits on liability set forth in Minnesota Statutes Chapter 466 or a waiver of any available immunities or defenses. The limitations of liability under Minnesota Statutes Chapter 466 for some or all parties may not be added together to determine the maximum liability for any party.
- 7.4 Nothing herein shall be construed to provide insurance coverage or indemnification to an investigator, employee, or volunteer of any member for any act or omission for which the

officer, employee, or volunteer is guilty of malfeasance in office, willful neglect of duty, or bad faith.

- 7.5 Any excess or uninsured liability shall be borne equally by all the members, but this does not include the liability of any individual investigators, employee, or volunteer which arises from their malfeasance, willful neglect of duty, or bad faith.
- 7.6 Each member shall be responsible for injuries to or death of its personnel. Each member will maintain workers' compensation insurance or self-insurance coverage, covering its personnel while they are assigned to the Task Force or are otherwise participating in or assisting with Task Force operations or activities. Each member waives the right to, and agrees that it will not, bring any claim or suit against the Task Force or any other member for any workers' compensation benefits paid to its employee or dependents that arise out of participation in or assistance with Task Force operations or activities, even if the injuries were caused wholly or partially by the negligence of any other member or its investigators, employees, or volunteers.
- 7.7 Each member shall be responsible for damages to or loss of its own equipment. Each member waives the right to, and agrees that it will not, bring any claim or suit against the Task Force or any other member for damages to or loss of its equipment arising out of participation in or assistance with Task Force operations or activities, even if the damages or losses were caused wholly or partially by the negligence of any other members or its investigators, employees, or volunteers.
- 7.8 All insurance policies and certificates required under this Agreement shall be open to inspection by any member, and copies of the policies or certificates shall be submitted to a member upon written request.

8. **Finances.**

- 8.1 Task Force operations will be financed from grant funds, drug forfeitures, and any funds voluntarily contributed by any member and will be determined by the Board Members, subject to the normal budget processes of the signatories. Members will provide officers to be assigned to the Task Force but will not otherwise be required to provide funds without

the prior amendment of this Agreement. Board members should also consider other possible funding sources, such as per capita models or funding from other agencies.

- 8.2 The County shall serve as the fiscal agent. The Fiscal Agent shall serve as the sole administrator of all funds contributed by Task Force members or otherwise received by the Task Force, and in such capacity is authorized to receive all funds for deposit and make disbursements therefrom in accordance with generally accepted accounting principles. In conjunction therewith, the Fiscal Agent shall maintain current and accurate records of all obligations and expenditures of Task Force funds in accordance with generally accepted accounting principles. It shall also produce quarterly financial and statistical reports, disseminated to all Directors and the Task Force Commander. The Task Force shall maintain all such reports and related records for a period of six (6) years after the dissolution of the Task Force.
- 8.3 The Board shall approve an annual operating budget for the Task Force, and the Board may amend the budget as necessary, subject to the normal budget processes of the signatories.
- 8.4 The Board may expend the Task Force's funds in accordance with this Agreement in a manner determined by the Board. In no event shall there be an expenditure of Task Force funds in excess of \$1,500 except in accordance with the approved budget. The Task Force Commander will have the authority to, in urgent circumstances, spend up to \$1,500 without Board approval. All such urgent expenditures must be reported to the Board at the next scheduled meeting.
- 8.5 The Board may, in its discretion, make partial reimbursements to members for wages the members have actually paid to their personnel for service to the Task Force. In making such reimbursement, the Board shall determine a gross amount to be paid. The reimbursement shall be distributed in proportion to the full-time staffing contributions of each member to the Task Force during the 12 months immediately preceding the Board's decision to make reimbursements, determined by the full-time equivalent contributions of each member for each of the 12 months immediately preceding the Board's decision to make reimbursements.
- 8.6 The Board may not incur debts (i.e.: take_out loans, issue bonds/indentures).

9. **Investigators.**

- 9.1 Each member shall recommend licensed peace officers to serve on the Task Force as investigators, subject to Section 9.2.2. Assignments for the year 2022 are as follows:

County of Crow Wing	3 FTE
City of Baxter	1 FTE
City of Brainerd	1 FTE

For each subsequent year, each member will advise the Board, before October 31, of the number of employees that the member will provide in the subsequent calendar year.

9.2 Investigator Selection:

- 9.2.1 Employment Status: Investigators assigned to the Task Force Shall be licensed peace officers employed full-time by one of the member agencies. The investigator's employment status shall be in good standing, and s/he shall have successfully completed a probationary period with his/her home agency before being assigned as a Task Force member. 9.2.2

Selection: The Board shall promulgate an investigator selection process. The process shall consist of a recommendation by the CLEO of a member agency of a person from within their organization. Once nominated to the Task Force, the nominated individual must meet other conditions as determined by the Board.

- 9.3 All investigators assigned to the Task Force shall comply with the policies and rules adopted by the Task Force Board. In areas where the Task Force Board has not adopted a policy or rule, personnel assigned to the Task Force shall comply with the policies and rules promulgated by their employing agency. The Task Force Commander, or their designee, shall refer disciplinary matters or other instances of misconduct involving an Investigator to the Investigator's CLEO for investigation, referral, or disposition. However, nothing herein shall be construed to prevent the Task Force Commander from reporting suspected criminal conduct directly to an outside agency for investigation.
- 9.4 Investigators will be responsible for drug investigations, including intelligence management, case development, confidential informant file creation and upkeep, expense reports, and case charging. Investigators may also assist other Investigators in surveillance and

undercover operations. Task Force Investigators will work cooperatively with assisting agencies. Investigators acting under this Agreement in the jurisdiction of another member are acting in the line of duty and in the course of employment and are authorized to exercise the powers of a peace officer therein.

10. **Forfeiture, Seizures, and Fines.** All proceeds generated by Task Force operations shall be returned to the Task Force. When the Task Force seizes property or funds in cooperation with other law enforcement agencies, the Task Force Commander will negotiate the distribution of the forfeited funds with those agencies in consultation with the Board of Directors.
11. **Additional Members and Change in Membership.**
 - 11.1 A governmental unit may join the Task Force and become a member upon a 75% approval vote by the Board of Directors and execution of a copy of this Agreement by its governing body.
 - 11.2 The Board of Directors may involuntarily terminate a member if that member has failed to provide a minimum of one officer to staff the Task Force for more than 12 consecutive months.
 - 11.3 In any case in which a city identified in paragraph 3 joins the Task Force after the effective date of this Agreement or any other governmental unit joins the Task Force pursuant to paragraph 11.1, contributions by and reimbursement to such members shall be equitably determined and adjusted by the Board to reflect the participation by that member for less than one full year. The decision of the Board shall be final.
 - 11.4 A member may withdraw and cancel its participation in this Agreement upon ninety (90) days written notice to all other members.
12. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, all of which constitute the same instrument.
13. **Entire Agreement.** It is understood and agreed that this agreement is the final expression of the agreement of the parties and is the complete and exclusive statement of the terms agreed upon; and, shall supersede all prior negotiations, understandings, past practices or

agreements of the parties. There are no representations, warranties or stipulations, either oral or written, not herein contained. This agreement cannot be altered or amended except in writing signed by all Members.

IN WITNESS WHEREOF, the undersigned Governmental Units, by the action of their governing bodies, caused this Agreement to be executed in accordance with the authority of Minnesota Statutes, § 471.59.

LAKES AREA DRUG INVESTIGATION DIVISION JOINT POWERS AGREEMENT

CITY OF BAXTER

The Baxter City Council duly approved this Agreement on the _____ day of _____, 2022.

City of Baxter

Approved as to form
and legality:

Baxter City Attorney

By: _____
Its Mayor

And: _____
Its City Administrator

(Signatures continued on the following page)

LAKES AREA DRUG INVESTIGATION DIVISION JOINT POWERS AGREEMENT

CITY OF BRAINERD

The Brainerd City Council duly approved this Agreement on the _____ day of _____, 2022.

City of Brainerd

Approved as to form
and legality:

Brainerd City Attorney

By: _____
Its Council President

And: _____
Its City Administrator

(Signatures continued on the following page)

LAKES AREA DRUG INVESTIGATION DIVISION JOINT POWERS AGREEMENT

COUNTY OF CROW WING

The Crow Wing Count Board duly approved this Agreement on the _____ day of _____, 2022.

County of Crow Wing

Approved as to form
and legality:

Crow Wing County Attorney

By: _____
County Board Chair

And: _____
Its County Administrator



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Approve 2022 Bridge Inspection Request for Proposals

☐ 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: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request is the request for proposals for the bi-annual bridge safety inspection services.	
Alternatives, Options, Effects on Others/Comments: The City is required by law to inspect their two owned bridges (College Drive and Laurel Street) on a 24 month cycle. The inspections include breaking the bridge down into each element of the bridge and rating the bridge based on the scoring as outlined in the BSIPM (Bridge and Structure Inspection Program Manual), and published by MnDOT. The City Engineer is the designated program administrator for the bridge inspection program for the City, but consultants have long performed this service for the City, as City personnel do not have the equipment or training/certifications to inspect structures per MnDOT and FHWA guidance. The data is imported into MnDOT SIMS (Structure Information Management System) and provides a sufficiency rating for the structure. The inspector sends the inspection information to the program administrator for approval. MnDOT then compiles all the bridge data from across the state into an annual bridge report that is submitted to FHWA. This information is also randomly audited by MnDOT to ensure compliance with industry inspection standards. We typically pay between \$3,500-\$5,000 for these services out of the construction fund.	
Recommended Action/Motion: Staff recommends approval of the attached Request for Proposals for Bridge Safety Inspection Services, with a proposal due date of April 22, 2022.	
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

Request for Proposals 2022 Bridge Safety Inspections

The City of Brainerd is requesting proposals for services to perform our 2022 Bridge Safety Inspections on two bridges which are both on a 2-year inspection cycle. The bridges are as follows:

Bridge #18509 (Laurel Street over the Mississippi River)
Bridge #18505 (College Drive over the Mississippi River)

The bridges were last inspected in October of 2020 and are due for inspection in October of 2022.

Scope of Services

The Scope of Services being requested includes the following items:

- A complete inspection of all bridge elements in accordance with established guidelines and procedures.
- Verification of all measurements per element rating
- Update the inspection data in the City's SIMS account
- Submit updated data to Program Administrator for review and further processing.

All inspection services shall be conducted and led by a qualified and certified Team Leader.

Proposals should include the following information:

- A Lump Sum price for providing the inspection services described for both bridges and shall be compensation in full for all labor, tools, equipment, and supplies necessary to perform the services.
- Qualifications of the key team members who will be performing the inspections and entering the data
- Brief description of proposed inspection procedures
- Estimated schedule for performing the inspections and submitting inspection data

Proposals should be returned to the attention of Paul Sandy, Brainerd City Engineer/Public Works Director, by 2:00 P.M., April 22, 2022.



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Construction Cost Share Agreement for Pavement Marking with CWC

☐ 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: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached is a cost share agreement with Crow Wing County for pavement markings, to be completed in 2022 along with Crow Wing County's annual pavement marking contract.	
Alternatives, Options, Effects on Others/Comments: Staff elected to move this project up one year. We typically stripe all of the long line stripes on our streets on a bi-annual basis, and it has typically been done with Crow Wing County to help reduce the cost the City pays. In 2021, the City seal coated Oak Street, which consists of most of the striping in the City (besides College Drive). The first winter after a seal coat is typically pretty hard on the striping that is performed the year of the seal coat, as you can currently see on Oak Street. Much of the striping performed after the sealcoat is not visible anymore. College Drive is on the list to seal coat in 2022, and plans are currently out to bid. Being the lack of visibility of the current striping on Oak Street, along with College Drive being seal coated this year, that is a large majority of the striping that is performed with striping contract with Crow Wing County. Staff felt it makes logical sense to re-stripe Oak Street and the rest of the Brainerd streets that have long line in 2022, and then take 2023 off from striping as we typically wait 2-years in-between full city striping. College Drive striping is being performed with the seal coat contract. The estimated cost for the markings with the 3% Crow Wing County administration fee included is \$24,811.10.	
Recommended Action/Motion: Staff recommends approval of the attached cost share agreement with Crow Wing County for roadway pavement markings.	
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>\$24,811.10</u> <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i> We budget \$15,000 annually in the 5-year street and sewer capital plan for pavement markings.	

**CONSTRUCTION COST SHARE AGREEMENT
WITH THE CITY OF BRAINERD – PROJECT NO. CP 18-200-117
FOR ROADWAY PAVEMENT MARKINGS ON
VARIOUS CITY OF BRAINERD STREETS**

This Agreement is made and entered into this day of _____, 2022, by and between the County of Crow Wing, State of Minnesota, a political subdivision of the State of Minnesota, 326 Laurel Street, Brainerd, Minnesota, 56401, hereinafter referred to as "County", and the City of Brainerd, 501 Laurel St., Brainerd, MN 56401 herein after referred to as the "City".

WITNESSETH

WHEREAS, the parties mutually agree that pavement markings desired by the City to be applied to various City streets have the potential to result in overall costs savings when combined with the County project which will provide for pavement markings to numerous county roadways, and

WHEREAS, the County has budgeted funds to complete the project; and,

WHEREAS, the Crow Wing County Highway Department has prepared plans and specifications for the project entitled 2022 PAVEMENT MARKINGS, which plans and specifications are on file in the office of the County Engineer;

NOW, THEREFORE, IT IS MUTUALLY STIPULATED AND AGREED:

I. PURPOSE

The parties have joined together for the purpose of applying pavement markings to numerous County roadways and City streets as described in the plans and specifications entitled 2022 PAVEMENT MARKINGS on file in the office of the Crow Wing County Highway Department (hereinafter referred to as the "Project").

II. Duties

A. Design and Construction

The County shall incorporate City provided quantities and maps into the overall bidding package for the Project unless otherwise stated in this agreement. A contract administration fee for the City roads, at a rate of three percent of the City's construction costs, shall be reimbursable from the City. The County shall do the calling for all bids and the acceptance of all bid proposals.

B. Inspection and Approval

The County and City shall each provide construction inspection and staking for their respective roadways for the Project and approval for acceptance of the work as it is completed. The City will ensure that City streets are swept and in a condition ready to receive pavement markings. The City will notify the County of any concerns that arise during or after the completion of the Project. Approval of the completed construction contract by the County shall be final, binding and conclusive upon the City as to the satisfactory completion of the construction.

III. COSTS

A. The contract costs of the work, or if the work is not contracted, the cost of all labor, materials, normal engineering costs and equipment rental required to complete the work, shall constitute the estimated

construction costs and shall be so referred to herein. Actual final construction costs may vary and those will be the actual costs for which the relevant parties will be responsible.

B. The estimated construction cost for the City portion of the Project is \$24,088.45. Participation in the construction costs is as follows:

1. The City shall pay one hundred percent (100%) of the cost of the pavement markings related to all City streets. The estimated cost to the City for these items is \$24,088.45. When adding the three percent contract administration costs of \$722.65, the total estimated cost to the City is \$24,811.10.

2. The County shall pay for one hundred percent (100%) of the pavement markings related to the remaining County roadways and through agreements with other project partners.

C. The total estimated cost to the City for the Project is \$24,811.10 as shown in the attached Exhibit A. This amount is only an estimate and the City agrees to pay its share of actual costs incurred by the County in fulfilling this agreement.

D. After the award of the construction contract for the Project, the County shall update the City as to the current City construction costs. The City shall reimburse the County for its costs within 30 days of receipt of final project costs.

IV. TERM

This Agreement shall continue until terminated as provided hereinafter.

V. DISBURSEMENT OF FUNDS

All funds disbursed by the County or City pursuant to this Agreement shall be disbursed pursuant to law.

VI. CONTRACTS AND PURCHASES

All contracts let and purchases made pursuant to this Agreement shall be made by the County in conformity with State law.

VII. ACCOUNTABILITY

An accounting shall be made of all receipts and disbursements upon request by either party.

VIII. TERMINATION

This agreement shall terminate by either party only for breach of this Agreement or by mutual consent of the parties.

IX. NOTICE

For purposes of delivery of any notices hereunder, the notice shall be effective if delivered to the County Auditor of Crow Wing County, 326 Laurel Street, Brainerd, Minnesota, 56401, on behalf of the County, and City of Brainerd, 501 Laurel St., Brainerd, MN 56401 on behalf of the City.

XI. INDEMNIFICATION

The City and the County mutually agree to indemnify and hold harmless each other from any claims, losses, costs, expenses or damages resulting from the acts or omissions of the respective officers, agents, or employees relating to activities conducted by either party under this Agreement.

XII. ENTIRE AGREEMENT

It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and all negotiations between the parties relating to the subject matter hereof, as well as any previous agreement presently in effect between the parties to the subject matter hereof. Any alterations, variations, or modifications of the provisions of this Agreement shall be valid only when they have been reduced to writing and duly signed by the parties.

IN WITNESS WHEREOF, the parties of this Agreement have hereunto set their hands on the dates written below:

COUNTY OF CROW WING

By: _____
Robert Hall
Assistant County Engineer

Dated: _____

CITY OF BRAINERD

By: _____
Dave Badeaux
Mayor

Dated: _____

2022 PAVEMENT MARKING ESTIMATE					
BRAINERD QUANTITIES - COUNTY PROJECT 18-200-117					
LINEAR PAINT			CITY OF BRAINERD		
ITEM DESCRIPTION	UNITS		TOTAL UNITS	UNIT PRICE	TOTAL COST
4" SOLID LINE PAINT	LIN FT		74701	0.050	3,735.05
6" SOLID LINE PAINT	LIN FT		0	0.080	-
8" SOLID LINE PAINT	LIN FT		0	0.110	-
4" BROKEN LINE PAINT	LIN FT		12810	0.050	640.50
4" DOTTED LINE PAINT	LIN FT		0	0.250	-
8" DOTTED LINE PAINT	LIN FT		0	0.300	-
4" DOUBLE PAINT	LIN FT		22799	0.100	2,279.90

MESSAGE PAINT			CITY OF BRAINERD		
ITEM DESCRIPTION	UNITS		TOTAL UNITS	UNIT PRICE	TOTAL COST
CROSSWALK PAINT	SQ FT		0	2.700	-
PAVEMENT MESSAGE PAINT	SQ FT		5585	2.700	15,079.50
6" SOLID LINE PAINT (HAND)	LIN FT		0	1.200	-
8" SOLID LINE PAINT (HAND)	LIN FT		0	1.400	-
12" SOLID LINE PAINT (HAND)	LIN FT		0	1.700	-
24" SOLID LINE PAINT (HAND)	LIN FT		1046	2.250	2,353.50

Estimated Construction Cost	\$	24,088.45
Estimated Contract Admin. (3%)	\$	722.65
Total Estimated Cost	\$	24,811.10



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Approve Contract Towing Specifications and Authorize Bidding of Services

☐ 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: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request is the draft notice of bid, contract towing specifications, bid form, and agreement for contract towing services.	
Alternatives, Options, Effects on Others/Comments: This is a bi-annual contract that the city solicits towing vendors to perform towing services at bid unit prices on behalf of the city. Some of the changes from last contract are contained in Section 15 and 16 of the specifications related to Notice of Taking and Sale and Estimate of Costs. The bid form was also modified to have the vendor add in their "Drop Fee" and "No Keys Fee". These were added to ensure that, if a ticket and impound fee is challenged by the registered vehicle owner, that the Police Department has the contracted prices for these services at their disposal to verify the correct amount was charged. The Notice of Taking and sale was added to place the burden on the vendor to send the notice out. State Statute says that either the vendor or police department is responsible, and staff felt it should be clear that the city expects the vendor to send out that notice. The estimate of costs section was added so that, while in the towing process, the registered owner can make an educated decision on whether to pay the drop fee or let the car be impounded and pick it up later, based on the estimated costs.	
Recommended Action/Motion: Staff recommends approval of the attached specifications and authorize bidding for these services as presented.	
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>	

**NOTICE OF PROPOSALS
PROPOSALS DUE APRIL 22, 2022 @ 10:00 A.M.
BRAINERD, MINNESOTA**

CONTRACT TOWING SERVICES

Notice is hereby given that bids will be received, opened, and read aloud in the presence of the City Administrator and the City Engineer in the Council Chambers, City Hall, in the City of Brainerd, Minnesota, on Friday, April 22, 2022, at 10:00 a.m. for the contracting of City-ordered towing in accordance with the specifications for the same on file in the office of the City Engineer of said City.

All bids shall be sealed and clearly marked "Bid for Contract Towing, Friday, April 22, 2022, 10:00 a.m.".

The City of Brainerd reserves the right to reject any and all bids and to waive minor irregularities and informalities therein and further reserves the right to award the contract in the best interest of the City.

Jennifer Bergman
City Administrator

Publish March 25, 2022 (1 time)

**CITY OF BRAINERD
TOWING SERVICES
SPECIFICATIONS**

SECTION 1. GENERAL DESCRIPTION OF SERVICE

This work shall consist of providing all towing services for the City of Brainerd for the period beginning May 15, 2020 and ending on May 14, 2022. The vendor shall tow vehicles parked illegally during snow removal, street sweeping, street maintenance, special activities, when “no preference” of vendors is given for a disabled vehicle, and when directed by the Chief of Police, the City Engineer, or their designees, for public safety. The term for the towing services shall be for 2 years, subject to the termination clause in Section 14.

SECTION 2. EQUIPMENT REQUIREMENTS

The vendor shall operate tow vehicles that are in good mechanical condition, can operate in a safe and satisfactory manner, and are fully compliant with State law. The vendor shall operate a sufficient number of vehicles to tow illegally parked vehicles from the Central Business District to the vendors impound lot at a rate of 6 vehicles per hour during snow removal and street sweeping operations. In addition, the Vendor shall operate a truck with a tilting flat bed capable of loading and transporting severely damaged vehicles and a means to transport motorcycles.

All towing equipment shall be clearly identifiable as belonging to the towing vendor and shall have adequate lights, flashers, towing equipment, vehicle securements, and other necessary supplies as required.

SECTION 3. IMPOUND LOT

The Vendor shall operate a secured impound lot for the storage of vehicles towed under the terms of this agreement. The impound lot must meet the requirements of the City Zoning Ordinance and any conditions placed on said lot as a result of a conditional use permit. The impound lot shall either be within the City limits of the City or within a 2-mile radius beyond the City limits. The Vendor shall provide for the release of impounded vehicles 24 hours per day, 7 days per week. After Hours Release consists of 5 PM to 7 AM weekdays (excluding holidays) and weekends 5 PM Friday to 7 AM Monday.

SECTION 4. HOLD HARMLESS/INSURANCE REQUIREMENTS

The Vendor shall assume all liability and shall defend and indemnify the City from any claims of loss or damage caused to any person or property or demands of same, whether put in suit or not, arising out of the Vendor’s negligence or misconduct or the Vendor’s failure to perform its obligations under this Agreement. The Vendor shall take out and maintain throughout the term of this service insurance with the following minimums:

- a. Worker's Compensation insurance at statutory limits covering all employees who perform any of the obligations assumed by the Vendor under this agreement. The Contractor shall also carry Employers' Liability Coverage with minimum limits as follows:
 - \$500,000 – Bodily Injury by Disease per employee
 - \$500,000 – Bodily Injury by Disease aggregate
 - \$500,000 – Bodily Injury by Accident
- b. Commercial General Liability insurance covering all operations under the agreement in a minimum amount of \$1,000,000 per occurrence; \$2,000,000 annual aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal injury, advertising injury, and contractually assumed liability. Automobile liability insurance on all self-propelled vehicles used in connection with the agreement, whether owner, non-owned or hired; public liability limits of not less than \$1,000,000 combined single limit.
- c. Garagekeeper's liability insurance in the minimum amount of \$500,000 per occurrence.

The Vendor shall provide the City with a certificate of said insurance, which shall list the City as additional insured on the Vendor's general liability, auto liability and garagekeeper's liability policies. The Vendor's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' written notice for non-payment of premium. The Vendor's policies shall be primary insurance and non-contributory to any other valid and collectible insurance available to the City with respect to any claim arising out of the Vendor's performance under this Agreement.

SECTION 5. BASIS OF PAYMENT

- a. Payment for towing shall be by the vehicle owner for impounded vehicles and by the City for vehicles not impounded, at the unit prices bid on the Form of Proposal. The unit prices shall govern for all towing in each category. No separate compensation will be paid for towing that may occur outside of normal business hours, on weekends, and on holidays. Payment shall be compensation in full for all labor, equipment, materials, and accessories required to perform the towing as specified.
- b. Impound storage fees shall be paid by the vehicle owner at the unit price bid on the Form of Proposal. Bidders shall state their storage fees per day, per fractional day, and any other term that applies.

SECTION 6. TOWING WITHOUT IMPOUNDING

- a. On occasion, the City will request that vehicles be towed without impounding. This typically occurs during street maintenance projects,

which require the relocation of vehicles. Vehicles towed are to be relocated to a nearby city parking lot or an adjacent street. These requests will typically be during normal business hours and early evening hours.

- b. Payment for an individual vehicle being towed under this provision will be by the City at the unit price bid for “TOWING WITHOUT IMPOUNDING” on the form of proposal. If asked to stand by and relocate numerous vehicles to accommodate a maintenance project such as seal coating or crack sealing, payment will be made for standby/miscellaneous by the hour.

SECTION 7. TOWING OF CITY OWNED VEHICLES

- a. On occasion, the City may be in need of having a City-owned vehicle towed to either a City garage, automobile dealers garage, or a body shop within the Brainerd/Baxter area. Requests to tow City-owned vehicles can occur at any time of day.
- b. Included within this bid item are vehicles that are seized, forfeited or held as evidence. These vehicles will be towed to the Brainerd Police Department or other City-owned facility. Request for this service can occur at any time of day.
- c. Payment for towing City-owned vehicles shall be paid by the City department requesting the towing at the unit price bid for “TOWING CITY VEHICLES” on the form of proposal.

SECTION 8. TOWING OF VEHICLES FOR STREET SWEEPING

- a. Between early March and the beginning of the snow season, the City sweeps streets in the downtown area every Wednesday morning beginning at 5:00 a.m. The streets affected are posted for NO PARKING between 4:00 a.m. and 6:00 a.m. Vehicles parked on these streets are ticketed and towed. The Vendor shall only tow those vehicles that have been issued a ticket.
- b. Payment and collection of the towing and impound fees are the responsibility of the vehicle owner and the Vendor respectively.
- c. Payment shall be at the unit price bid for “STREET SWEEPING TOWING” on the form of proposal.

SECTION 9. TOWING OF VEHICLES FOR SNOW REMOVAL

- a. Following the declaration of a Snow Emergency, parking is prohibited in the downtown area, commencing at 3:00 a.m., on the night snow removal operations are scheduled. Vehicles parked on these streets are ticketed and towed. The Vendor shall only tow those vehicles that have been issued a ticket.
- b. Payment and collection of the towing and impound fees are the responsibility of the vehicle owner and the Vendor respectively.

- c. Payment shall be at the unit price bid for “SNOW REMOVAL TOWING” on the form of proposal.

SECTION 10. NO PREFERENCE DISABLED VEHICLE TOWING

- a. When a vehicle is disabled due to a crash or mechanical failure and must be towed, the Brainerd Police Department will give the vehicle owner the option of which towing service they want to hire. If there is no preference given, the vehicle will be towed under the provisions of this agreement. If other law enforcement agencies have responded to the scene, those agencies may call other towing services.
- b. Disabled vehicles shall be removed in their entirety, including all body parts. All broken glass shall be swept up and removed and all vehicle fluids shall be absorbed and disposed of in accordance with Minnesota Pollution Control Agency requirements.
- c. Payment and collection of the towing and impound fees are the responsibility of the vehicle owner and the Vendor respectively.
- d. Payment shall be at the unit price bid for “DISABLED VEHICLE TOWING” on the form of proposal.

SECTION 11. MISCELLANEOUS TOWING

- a. Miscellaneous towing is all other towing not specifically identified above which results in the impounding of the vehicle. Examples of miscellaneous towing include the removal of “snowbirds”, abandoned vehicles, vehicles parked in no parking zones, and vehicles that constitute a threat to public safety.
- b. Payment and collection of the towing and impound fees are the responsibility of the vehicle owner and the Vendor respectively.
- c. Payment shall be at the unit price bid for “MISCELLANEOUS TOWING” on the form of proposal.

SECTION 12. MISCELLANEOUS CHARGES

- a. The City recognizes there may be additional charges that occur in special circumstances. When these circumstances arise, consultation with the towing provider will be made regarding the performance or payment for the special service.

SECTION 13. AWARD OF CONTRACT

- a. The proposals submitted shall be reviewed by the Brainerd City Council, who will determine the low proposal and/or the proposal which serves the best interest of the City and its residents.
- b. **Towing items listed in the Schedule of Towing Costs for which a unit price is not submitted will be excluded from the towing agreement.**

Bidders may also exclude a towing item by placing N/A in the unit price column.

SECTION 14. TERMINATION OF CONTRACT

- a. Either party may terminate this service with 90 days written notice to the other party.
- b. The City Council reserves the right to immediately terminate the service if the Vendor fails to comply with the specifications.

SECTION 15. NOTICE OF TAKING AND SALE

Pursuant Minnesota Statute 168B.06, the vendor shall provide written notice of impound when an impounded vehicle is taken into custody within five days, excluding Saturdays, Sundays, and legal holidays, to the registered vehicle owner and any lienholders. The notice must include all the requirements pursuant to that section.

SECTION 16. ESTIMATE OF COSTS

Upon verbal request by the registered vehicle owner, the vendor shall provide the vehicle owner an estimate of fees, based on the Schedule of Towing Costs, for retrieving the vehicle from the impound lot to provide transparency and clarity to the owner. Vendors employees should be aware of the contracted costs for these services enough to provide an accurate estimate of fees the vehicle owner will incur if the vehicle is indeed impounded or dropped at its location, based upon the fees in the attached Schedule of Towing Costs.

**CITY OF BRAINERD
TOWING SERVICES
April 2022**

FORM OF PROPOSAL

SCHEDULE OF TOWING COSTS

ITEM NO.	ITEM	UNIT PRICE
1.	TOWING WITHOUT IMPOUND	_____ PER TOW
2.	TOWING CITY VEHICLES	_____ PER TOW
3.	STREET SWEEPING TOWING	_____ PER TOW
4.	SNOW REMOVAL TOWING	_____ PER TOW
5.	DISABLED VEHICLE TOWING	_____ PER TOW
6.	MISCELLANEOUS TOWING	_____ PER TOW
7.	MOTORCYCLE	_____ PER TOW
8.	SEMI-WRECKER TOWING	_____ PER TOW
9.	SEMI-WRECKER WINCHING	_____ PER _____
10.	REGULAR WRECKER WINCHING	_____ PER _____

SCHEDULE OF STORAGE COSTS

ITEM NO.	ITEM	UNIT PRICE
11.	IMPOUND STORAGE	_____ PER 24 HR

MISCELLANEOUS COSTS

12.	AFTER HOURS RELEASE (see Section 3)	_____
13.	DOLLIES	_____ PER TOW
14.	CRASH RELATED CLEANUP (5 MINUTE MINIMUM)	_____ PER 30 MINS
15.	STAND BY AND MISC. TIME	_____ PER _____
16.	NO KEYS FEE	_____ PER TOW
17.	DROP FEE	_____ PER TOW

DATE

BUSINESS NAME

ADDRESS

PHONE NO.

SIGNATURE AND TITLE

CITY OF BRAINERD
CONTRACT TOWING AGREEMENT

This Agreement made this 3rd day of May, 2022, by and between the City of Brainerd, hereinafter called the “City”, and **Vendor**, hereinafter called the “Vendor”

THIS AGREEMENT WITNESSETH, that the City and the Vendor, for the consideration hereinafter stated, agree as follows:

ARTICLE I. The Vendor hereby covenants and agrees to perform and execute all the provisions of the Specifications as prepared by the City, and indicated below under Article IV as approved by the City for **Contract Towing Services** and to do everything required by this agreement and the contract documents in a timely and responsive manner.

ARTICLE II. The Vendor agrees to perform the work contemplated by this agreement between the date of this agreement and May 14, 2024, subject to Section 14 of the Specifications.

ARTICLE III. The Vendor agrees to receive and accept payment in accordance with the Specifications for the units of towing as set forth in the conformed copy of the Proposal Form hereto attached, which prices shall conform to those in the accepted Vendor’s proposal on file in the office of the City Administrator/Clerk-Treasurer of the City of Brainerd.

ARTICLE IV. The contract documents shall consist of the following component parts:

1. The Proposal Form;
2. Towing Service Specifications;
3. Addenda, if any; and
4. This Agreement.

IN WITNESS THEREOF, the parties to this agreement have hereunto set their hands and seals as of the day and year first above written.

CITY OF BRAINERD

BY _____
Mayor

ATTEST

Jennifer Bergman
City Administrator

VENDOR

BY _____

TITLE _____

BY _____

TITLE _____



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Approve Plans and Specs and Authorize Bidding - East River Road Imps

☐ 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: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request is the project estimate and select plan sheets for the improvements to East River Road. These are being constructed in conjunction with the Mississippi Landing Trailhead Park project in 2022.	
Alternatives, Options, Effects on Others/Comments: The project consists of some storm sewer modifications, ADA upgrades, and diagonal improvements to the area near the park on the roadway. There were some minor grade modifications to the roadway to help out with ADA on the trail and pedestrian ramps as part of the project also. The total estimated improvement costs for this improvement project is \$326,348.40, but also includes 10% contingency. Staff would like approval to advertise for this project with the MLT project, as the contractor performing this work will also be able to construct the roadway as part of the project, and the plans are joined together with different funding sources.	
Recommended Action/Motion: Staff recommends approval of the plans and specifications as presented and authorizing bidding the East River Road Improvements concurrently with the MLT park project.	
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> The East River Road Improvements are a part of the City's 5-year street and sewer capital plan.	

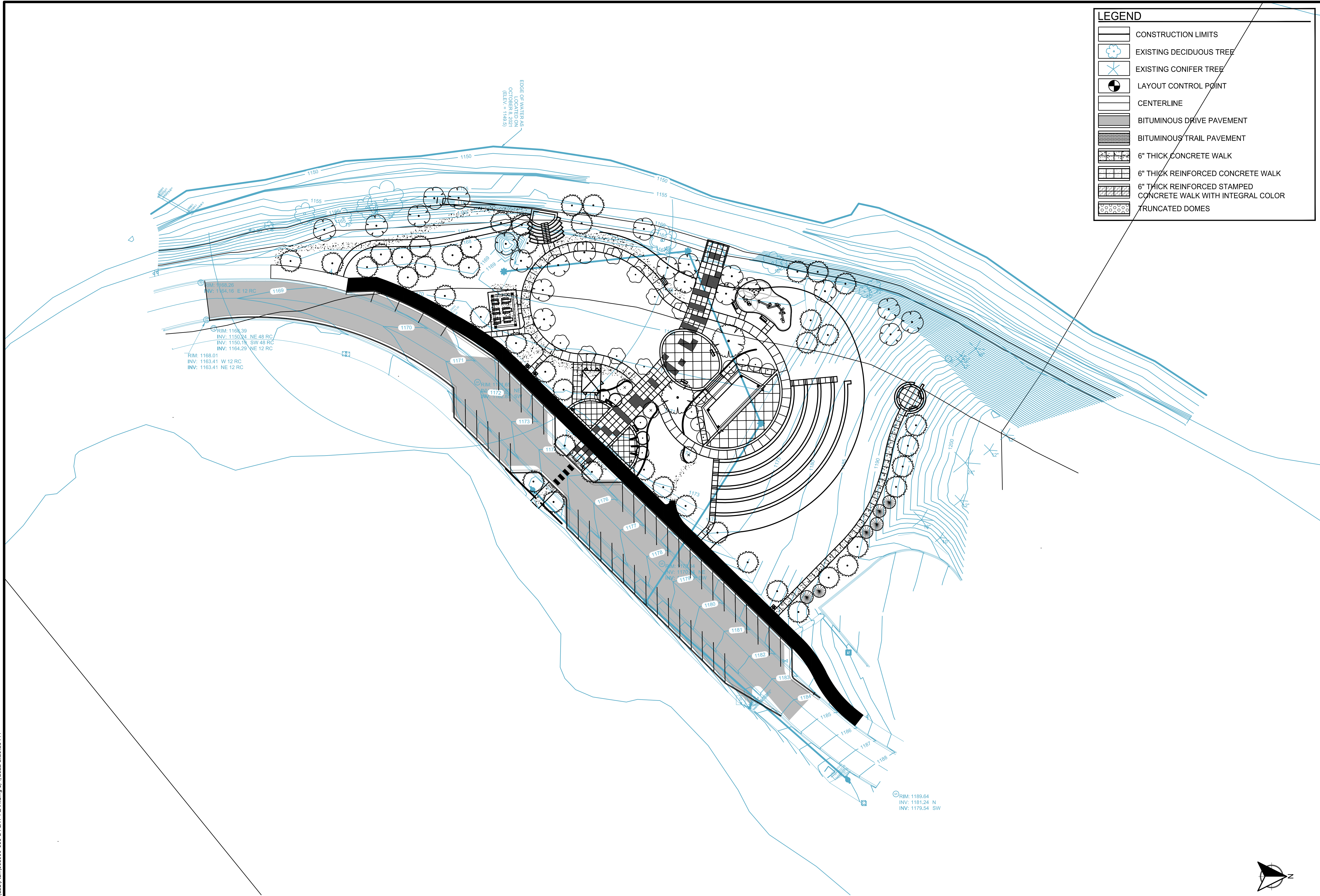
EAST RIVER ROAD RECONSTRUCTION AT MLT PARK

Number	Description	Unit	Quantity	Unit Price	Estimated Total
2582.618/09000	PAVEMENT MARKING SPECIAL	S F	30	\$20.00	\$ 600.00
2506.502/06000	CASTING ASSEMBLY	EACH	9	\$750.00	\$ 6,750.00
2564.502/00200	INSTALL SIGN	EACH	10	\$350.00	\$ 3,500.00
2506.601/00001	CONTROL STRUCTURE	LS	1	\$3,500.00	\$ 3,500.00
2501.502/05018	18" RC PIPE APRON	EACH	1	\$1,450.00	\$ 1,450.00
2506.502/00072	CONST DRAINAGE STRUCTURE DESIGN G OR H	EACH	2	\$400.00	\$ 800.00
2506.503/02420	CONST DRAINAGE STRUCTURE DES 48-4020	L F	50	\$625.00	\$ 31,250.00
2501.503/24182	18" RC PIPE CULVERT DES 3006 CL V	L F	825	\$75.00	\$ 61,875.00
2501.503/24125	12" RC PIPE CULVERT DES 3006 CL V	L F	125	\$50.00	\$ 6,250.00
2545.502/00100	LIGHTING UNIT TYPE SPECIAL	EACH	4	\$3,500.00	\$ 14,000.00
2531.503/02315	CONCRETE CURB & GUTTER DESIGN B618	L F	1,464	\$30.00	\$ 43,920.00
2360.509/13300	TYPE SP 9.5 WEARING COURSE MIX (3,C)	TON	750	\$85.00	\$ 63,750.00
2211.507/00170	AGGREGATE BASE (CV) CLASS 5	C Y	855	\$30.00	\$ 25,650.00
2106.507/00010	EXCAVATION - COMMON	C Y	3,800	\$4.50	\$ 17,100.00
2106.507/00130	COMMON EMBANKMENT (CV)	C Y	150	\$5.00	\$ 750.00
2503.602	RECONSTRUCT SANITARY MANHOLE	EACH	2	\$1,000.00	\$ 2,000.00
2104.502/02080	SALVAGE HYDRANT & VALVE	EACH	1	\$750.00	\$ 750.00
2504.602/00024	INSTALL HYDRANT & VALVE	EACH	1	\$750.00	\$ 750.00
2504.602/00032	ADJUST GATE VALVE & BOX	EACH	1	\$250.00	\$ 250.00
2104.502/01220	REMOVE SIGN	EACH	6	\$50.00	\$ 300.00
2104.503/00315	REMOVE CURB & GUTTER	L F	1,360	\$5.00	\$ 6,800.00
2104.504/00120	REMOVE BITUMINOUS PAVEMENT	S Y	2,500	\$3.00	\$ 7,500.00
2104.504/00050	REMOVE CONCRETE WALK	S Y	30	\$10.00	\$ 300.00
2104.503/01220	SALVAGE FENCE	L F	400	\$10.00	\$ 4,000.00
2582.503/10104	4" SOLID LINE PAINT	L F	1,106	\$0.50	\$ 553.00
2582.518/05000	CROSSWALK PAINT	S F	72	\$3.00	\$ 216.00
2503.603/24006	6" PVC SANITARY SERVICE PIPE	L F	54	\$70.00	\$ 3,780.00
2504.603/00720	2" TYPE K COPPER PIPE	L F	45	\$50.00	\$ 2,250.00
2504.602/00420	2" CORPORATION STOP	EACH	1	\$500.00	\$ 500.00
2504.602/03200	2" CURB STOP & BOX	EACH	1	\$750.00	\$ 750.00
2503.602/00300	CONNECT TO EXISTING SANITARY SEWER	EACH	1	\$2,000.00	\$ 2,000.00
2504.602/00010	CONNECT TO EXISTING WATER MAIN	EACH	1	\$1,000.00	\$ 1,000.00
			CONSTRUCTION COST		\$ 314,844.00
			10% CONTINGENCY		\$ 31,484.40
			TOTAL COST		\$ 346,328.40

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1
L3.0

OVERALL LANDSCAPE & RESTORATION PLAN



LEGEND	
	CONSTRUCTION LIMITS
	EXISTING DECIDUOUS TREE
	EXISTING CONIFER TREE
	LAYOUT CONTROL POINT
	CENTERLINE
	BITUMINOUS DRIVE PAVEMENT
	BITUMINOUS TRAIL PAVEMENT
	6" THICK CONCRETE WALK
	6" THICK REINFORCED CONCRETE WALK
	6" THICK REINFORCED STAMPED CONCRETE WALK WITH INTEGRAL COLOR
	TRUNCATED DOMES



SCALE: AS SHOWN
PLAN BY: SDF
DESIGN BY: RAS
CHECK BY: RAS

REVISIONS	
NO.	DESCRIPTION

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

ROBERT A. SUIPKA III
DATE: LIC. NO. 44337

OVERALL
LANDSCAPE &
RESTORATION
PLAN

MISSISSIPPI LANDING TRAILHEAD PROJECT
CITY OF BRAINER

CLIENT PROJECT NO.

WSB PROJECT NO.
018999-000

SHEET
L5.0



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Approve Plans and Specs-Authorize Bidding-2022 Collection System

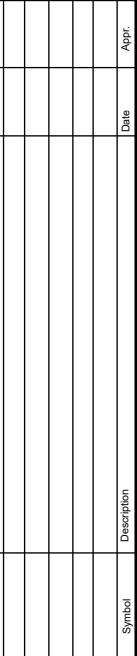
☐ INFORMATION ONLY ☐ CONSENT AGENDA ☐ P&F COMMITTEE ☒ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☒ Approve/Deny Motion ☐ Adopt Resolution (attach draft) ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1 st Reading <i>*provide copy of published hearing notice</i>
Submitted by: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request is the final plans and cost estimates for the 2022 Sanitary Sewer Collection System repair project, taking place in Rotary Park.	
Alternatives, Options, Effects on Others/Comments: This project is to cured in place pipe line the sanitary sewer main and rehabilitate the manholes as shown in the attachments. This project came about from the first smoke testing and manhole investigation that was performed by SEH to look at our collection system and find the areas where direct inflow of stormwater into the system may be occurring. From the findings, this segment of pipe was in the most need, and therefore with the leftover funds we had from the study, we had SEH put together rehab plans for this segment and the segment of interceptor that runs from the main lift station and up East River Road to College Drive. With a rate study on the sanitary sewer fund being currently performed, the hope is that we get that fund to a point where we can fund yearly lining and manhole rehab projects moving forward to reduce I & I and treatment costs. The cost estimate for this project is \$557,475. This includes contingency, design expenses, and construction observation. There is a \$400,000 placeholder in the 5-year CIP for these projects, but this number will be calculated again as we perform the rate study to fund rehabilitation projects in the future.	
Recommended Action/Motion: Staff recommends approving the attached plans and specifications and authorize bidding. A bid opening date has not yet been determined for this project.	
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>	

BASIN 401
(ROTARY RIVERFRONT PARK)



1	TITLE SHEET
2	SHEET MAP
3	GENERAL NOTES AND SEQ
4	SANITARY SEWER CIPP LINING TABLE
5	SANITARY SEWER MANHOLE REPAIR TABLE
6	PLAN VIEW OF SANITARY SEWER CIPP LINING
7	PLAN VIEW OF SANITARY MANHOLE REPAIRS
8	PLAN VIEW OF TEMPORARY CONVEYANCE

DATE _____



Printed Name: _____

Certified by: _____

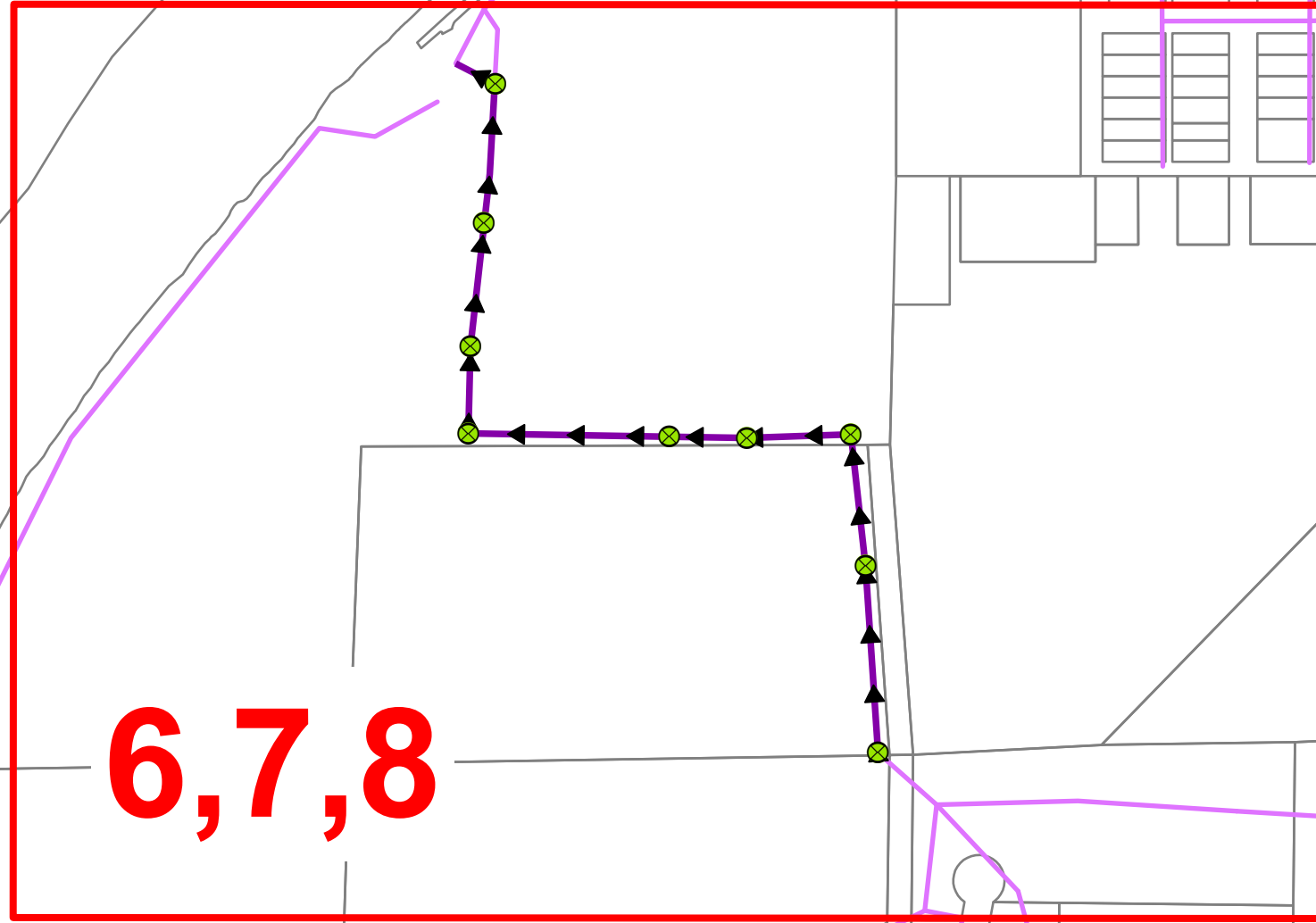
Licensed Professional Engineer

Lic. No. _____ Date: _____

DRAWING NUMBER:

1

-  Sanitary Sewer CIPP Lining
-  Sanitary Manhole Repair
-  Sanitary Sewer Pipe
-  Parcels
-  Project Area



ITEM NO.	ITEM DESCRIPTION	UNIT TYPE	QUANTITY
1	MOBILIZATION, TRAFFIC CONTROL, AND SITE SAFETY	LS	1
2	TEMPORARY FLOW CONVEYANCE	LS	1
3	SANITARY SEWER CLEANING AND CCTV INSPECTION	LF	2560
4	SANITARY SEWER CHEMICAL GROUTING ⁽¹⁾	EA	43
5	18-INCH SANITARY SEWER CIPP LINING	LF	2560
6	CONTINUOUS TEMPERATURE MONITORING AND DATA COLLECTION	LF	2560
7	SANITARY SEWER MANHOLE LINING	FT	72
8	INSTALL FRAME SEAL	EA	9

TABLE NOTES:

- 1) Sanitary sewer chemical grouting estimated for 10% of the pipe joints.

GENERAL NOTES:

- A) The exact location of utilities such as gas, telephone, fiber optic, electric, cable TV, and pipe lines are unknown. The contractor is responsible for avoiding utilities and shall contact Diggers Hotline before commencing excavation. Diggers Hotline.....811 or (800) 242-8511
- B) The contractor will access all manholes using existing roadway right of way. Manholes located off of the roadway right of way will be accessed using existing pipeline easement or with written approval by property owner and in coordination with City of Brainerd Public Works. Property owners shall be notified prior to accessing manholes from easements within privately owned properties. All disturbances and damage caused during construction shall be restored to preconstruction condition at no cost to owner or City of Brainerd Public Works.
- C) Public utility, property line, easement line, and right-of-way line information shown within this planset are taken from the City's GIS data.

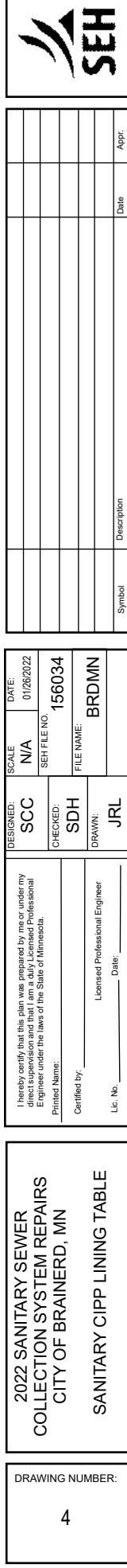
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Printed Name: _____		Checked: SDH	SEH File No: 156034
Certified by: _____		Drawn: JRL	File Name: BRODMN
Lic. No. _____ Date: _____		SCC N/A 12/22/2021 I hereby certify that this plan was prepared by me or under my supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.	

2022 SANITARY SEWER
COLLECTION SYSTEM REPAIRS
CITY OF BRAINERD, MN
GENERAL NOTES AND SEQ

DRAWING NUMBER:

Sanitary Sewer CIPP Lining Repair Table												
Pipe					Upstream MH		Downstream MH		CIPP Lining			Comments
Project Area	Pipe ID	Diameter	Material	Length	MH ID	MH Depth	MH ID	MH Depth	Pre-Cleaning	Chemical Grouting	18" CIPP	
		(in)		(ft)		(ft)		(ft)	(each)	(each)	(ft)	
401	3-401	UNK	UNK	104	401	8.6	3	UNK	1	2	104	Need to verify pipe size (Estimated as 18")
401	401-402	18	RCP	325	402	7.5	401	8.6	1	5	325	
401	402-403	18	RCP	291	403	6.5	402	7.5	1	5	291	
401	403-404	18	RCP	203	404	8.9	403	6.5	1	3	203	
401	404-405	18	RCP	467	405	UNK	404	8.9	1	8	467	
401	405-406	18	RCP	182	406	UNK	405	UNK	1	3	182	
401	406-407	18	RCP	242	407	8.9	406	UNK	1	4	242	
401	407-408	18	PVC	308	408	6.5	407	8.9	1	5	308	
401	408-409	18	VCL	438	409	6.8	408	6.5	1	7	438	
Basin 401 Subtotal									9	43	2560	



Sanitary Sewer Manhole Repair Table								
Manhole Information					Repairs			Comments
Project Area	Manhole ID	Location	Depth	Material	Pre-Cleaning	Install Frame Seal	Manhole Lining	
			(ft)		(Each)	(Each)	(ft)	
401	401	Rotary Riverside Park / Trail	8.6	RCP	1	1	9	
401	402	Rotary Riverside Park / Trail	7.5	RCP	1	1	8	
401	403	Rotary Riverside Park / Trail	6.5	RCP	1	1	7	
401	404	Rotary Riverside Park / Trail	8.9	RCP	1	1	9	
401	405	Rotary Riverside Park / Trail	UNK	RCP	1	1	9	Need to verify depth after pipe is clean
401	406	Rotary Riverside Park / Trail	UNK	RCP	1	1	9	Need to verify depth after pipe is clean
401	407	Rotary Riverside Park / Trail	8.9	RCP	1	1	9	
401	408	Rotary Riverside Park / Trail	6.5	RCP	1	1	7	
401	409	Rotary Riverside Park / Trail	6.8	RCP	1	1	7	
Basin 401 Subtotal					9	9	72	



Symical	Description	Date	Aspr.		

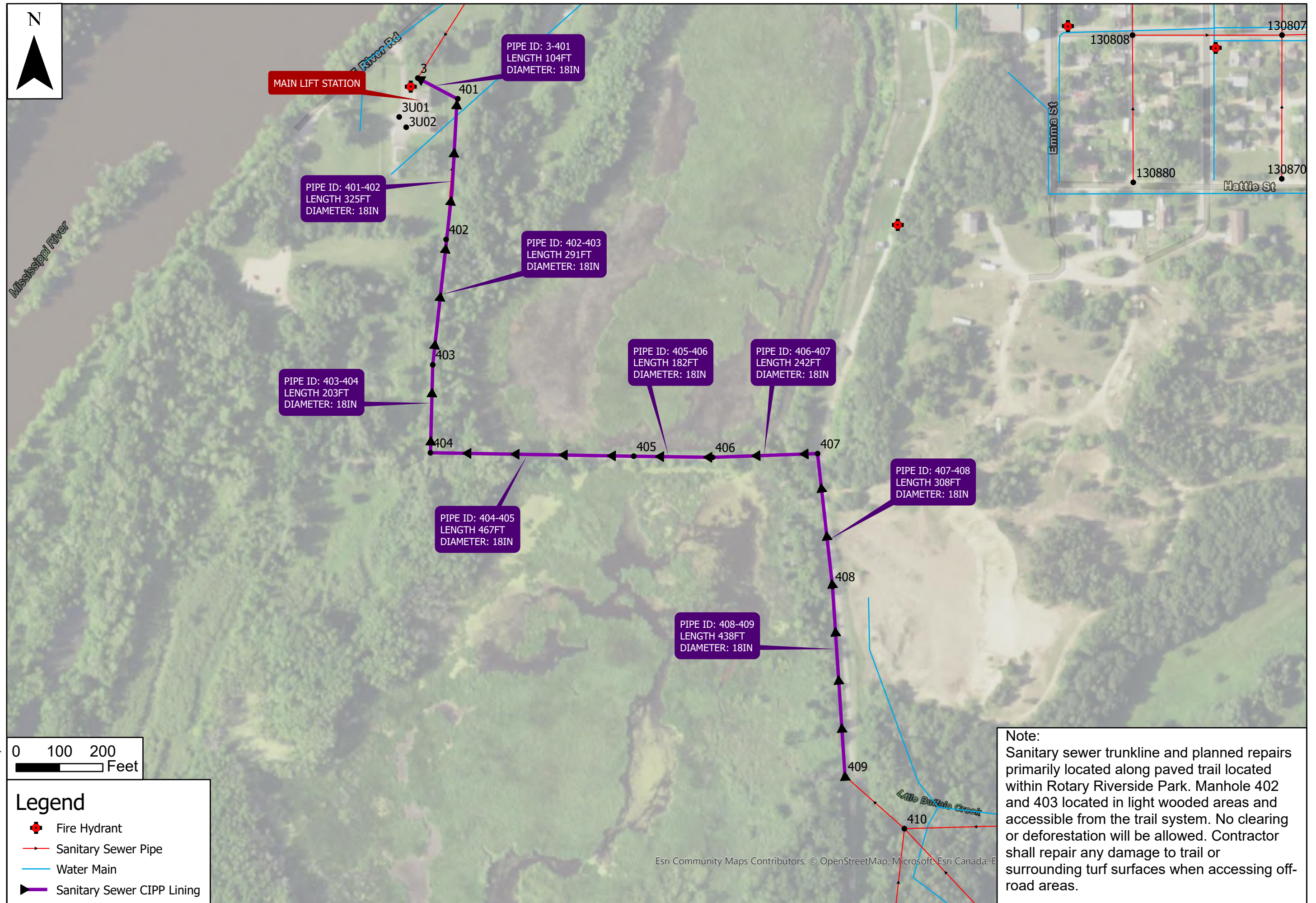
I.c. No. _____ Date: _____ Licensed Professional Engineer		DESIGNED: SCC CHECKED: _____ SDH	SCALE: N/A DATE: 01/26/2022 SHEET NO. 156034 FILE NAME: BRDMN
Thereby certify that this plan was prepared by me or under my supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota. Printed Name: _____ Certified by: _____			

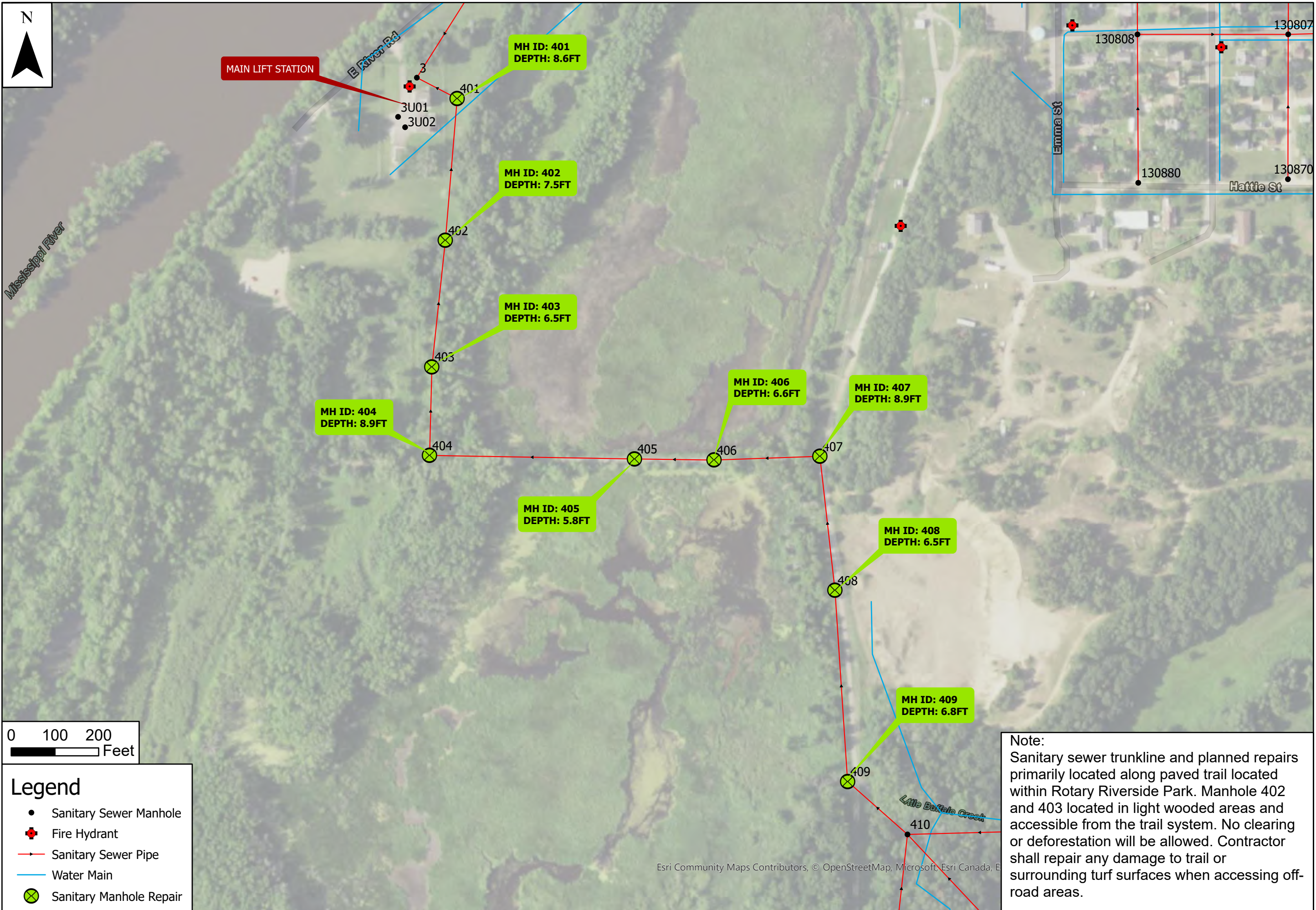
**2022 SANITARY SEWER
COLLECTION SYSTEM REPAIRS
CITY OF BRAINERD, MN**

MANHOLE REPAIR TABLE

DRAWING NUMBER:

5





2022 SANITARY SEWER
REHABILITATION
BRAINERD, MINNESOTA

PLAN VIEW OF MANHOLE REPAIRS

DRAWING NUMBER:

7

I hereby certify that this plan was prepared by me or under my supervision as a Professional Engineer under the laws of the State of Minnesota.

Printed Name: _____

Certified by: _____

L.C. No. _____ Date: _____

DESIGNED:
SCC

CHECKED:
SDH

DRAWN:
JRL

SCALE:
1"=200ft

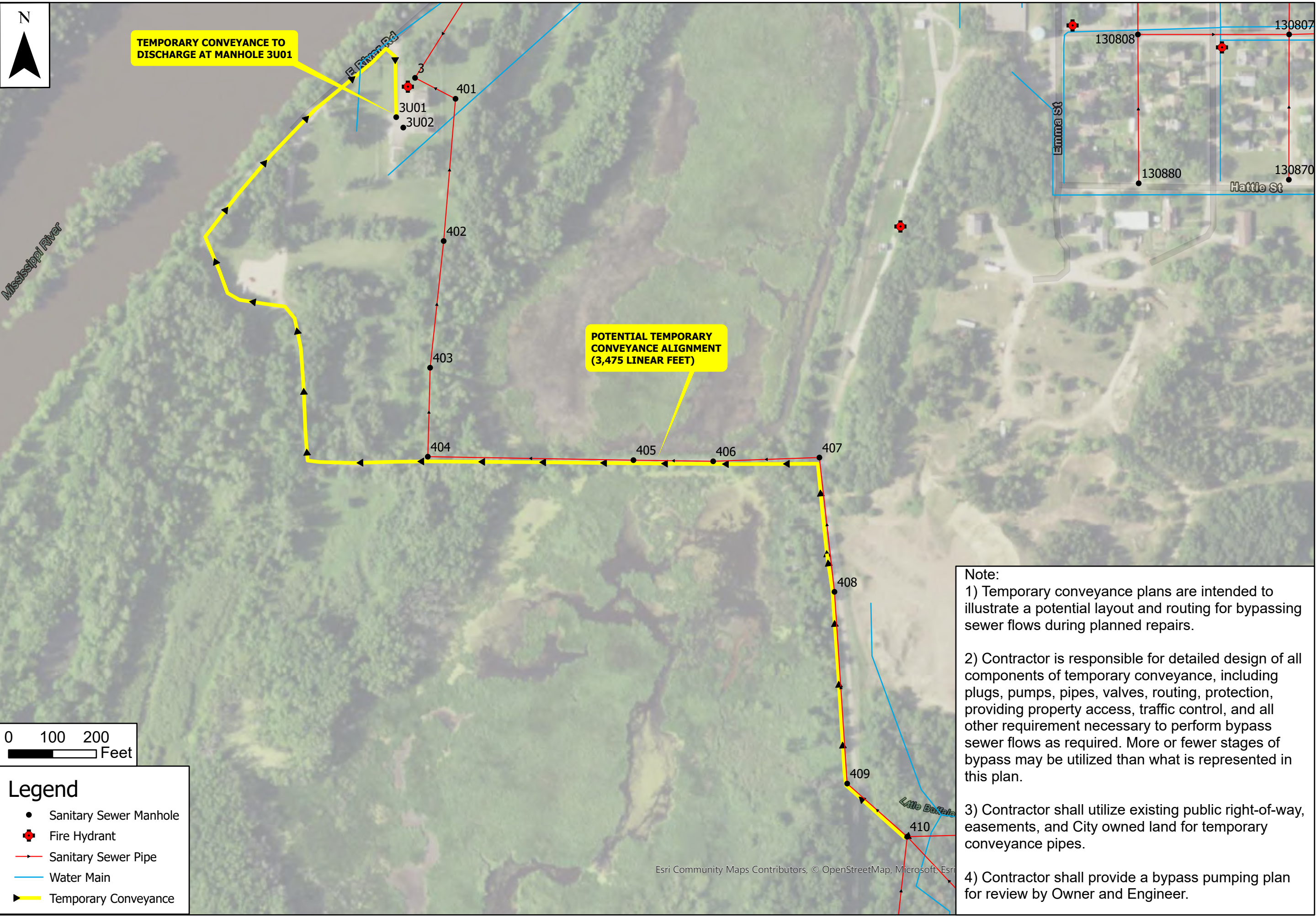
DATE:
01/27/2022

SEH FILE NO.:
156034

FILE NAME:
BRDMN

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Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri

- Note:
- 1) Temporary conveyance plans are intended to illustrate a potential layout and routing for bypassing sewer flows during planned repairs.
 - 2) Contractor is responsible for detailed design of all components of temporary conveyance, including plugs, pumps, pipes, valves, routing, protection, providing property access, traffic control, and all other requirement necessary to perform bypass sewer flows as required. More or fewer stages of bypass may be utilized than what is represented in this plan.
 - 3) Contractor shall utilize existing public right-of-way, easements, and City owned land for temporary conveyance pipes.
 - 4) Contractor shall provide a bypass pumping plan for review by Owner and Engineer.



Symbol	Description	Date	Appr.

DESIGNED:	SCALE	DATE:
SCC	1"=200ft	01/27/2022
CHECKED:	SEH FILE NO:	156034
SDH	FILE NAME:	BRDMIN
DRAWN:	JRL	

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Printed Name: _____

Certified by: _____ Licensed Professional Engineer

Lic. No. _____ Date: _____

2022 SANITARY SEWER
REHABILITATION
BRainerd, MINNESOTA

TEMPORARY CONVEYANCE

DRAWING NUMBER:

8



2022 SANITARY SEWER COLLECTION SYSTEM REPAIRS - BASIN 401

OPINION OF PROBABLE COST

City of Brainerd, MN

SEH No. BRDMN 156034

2/2/2022

Revised:

X:\AE\B\BRDMN\156034\5-final-dsgn\51-drawings\90-GIS\Excel\Engineers Estimate_OPC-SEQ\BRDMN 156034_Basin401_OPC_2022.03.03.xlsx]Sheet1

ITEM NO.	ITEM DESCRIPTION	UNIT	TOTAL QTY	UNIT COST	COST
1	MOBILIZATION, TRAFFIC CONTROL AND SITE SAFETY	LS	1	\$ 30,000.00	\$ 30,000.00
2	TEMPORARY FLOW CONVEYANCE	LS	1	\$ 70,000.00	\$ 70,000.00
3	SANITARY SEWER CLEANING AND CCTV INSPECTION	LF	2560	\$ 8.00	\$ 20,480.00
4	SANITARY SEWER CHEMICAL GROUTING	EA	43	\$ 750.00	\$ 32,250.00
5	18-INCH SANITARY SEWER CIPP LINING	LF	2560	\$ 90.00	\$ 230,400.00
6	CONTINUOUS TEMPERATURE MONITORING AND DATA COLLECTION	LF	2560	\$ 2.00	\$ 5,120.00
7	SANITARY SEWER MANHOLE LINING	FT	72	\$ 575.00	\$ 41,400.00
8	INSTALL MANHOLE FRAME SEAL	EA	9	\$ 650.00	\$ 5,850.00

SUBTOTAL	\$ 435,500.00
Contingency (15%)	\$ 65,325.00
Engineering & Design	\$ 21,800.00
Construction Services	\$ 34,850.00
PROJECT TOTAL	\$ 557,475.00



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Approve RFP for Harrison Elementary Oak Street SRTS Project

☐ 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: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request is a draft request for proposals for the 2023 Harrison Elementary Oak Street SRTS Project. This would be for design and construction engineering services for the project.	
Alternatives, Options, Effects on Others/Comments: The City of Brainerd received a \$500,000 MnDOT Safe Routes to School grant to construct the improvements as outlined in the SRTS Engineering Study on Oak Street in front of Harrison Elementary. This type of project, being grant funded, is above and beyond our annual street resurfacing and reconstruction plans as outlined in the 5-year capital improvement plan, and therefore, the staffing needed to deliver this project is not available from a city staff perspective. The construction of the project is 100% funded by the grant. Design and Construction Engineering services are not an eligible grant cost. The construction date for this project is in the summer of 2023.	
Recommended Action/Motion: Staff recommends the approval of the attached Request for Proposals for the Harrison Elementary Oak Street Safe Routes to School project, with a proposed proposal opening date of April 29, 2022.	
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 REQUEST FOR PROPOSALS

Harrison Elementary Oak Street Improvements - Safe Routes to School Project



The City of Brainerd is requesting proposals for design and construction engineering services including project design and development, preparation of plans and specifications, and construction/observation/testing for the Harrison Elementary Oak Street Improvements – Safe Routes to School Project. The project is being funded through the Minnesota Department of Transportation (MnDOT) Safe Routes to School (SRTS) Infrastructure Program.

BACKGROUND

In 2016/2017, the City of Brainerd worked with the Region 5 Development Commission on the creation of the City of Brainerd/ISD 181 SRTS Plan. After many successful years of receiving SRTS Infrastructure grants utilizing the City's 2014 plan created by SEH, the city, and Independent School District 181 (ISD 181) elected that a refresh of the plan was necessary, being that the improvements identified in the 2014 plan were largely exhausted and constructed.

Once the new City of Brainerd/ISD 181 SRTS Plan was complete, the City and School District applied and received funding for an Engineering Study through MnDOT. The study focused on improvements around 3 schools within the boundaries of Brainerd, those being Harrison Elementary, Lowell Elementary, and Riverside Elementary. At the same time of the study, ISD 181, through its Blueprint 181 plan and due to a referendum passed in 2018, was focusing on improvements to all the schools within ISD 181, including full scale remodeling, site improvements, building additions, and other improvements to the existing neighborhood schools.

The SRTS Engineering Study was completed in July of 2021. In the fall of 2021, MnDOT solicited applications for SRTS Infrastructure Projects and awarded the City of Brainerd a \$500,000 Safe Routes to School infrastructure grant for the improvements identified in the Engineering Study in front of Harrison Elementary School on Oak Street. Project construction is 100% funded through the grant funds. Engineering and construction management expenses are not eligible for reimbursement through the grant.

SCOPE OF PROJECT

The overall project scope includes the development of the improvements as identified in the Engineering Study. The Brainerd City Council has approved the conceptual layout of the improvements identified in the study, and can generally be described as:

1. Median placement and pedestrian refuge on Oak Street between 15th Street SE and 16th Street SE; and,
2. Concrete sidewalks and ADA ramps; and,
3. Curb extensions at the intersections of Oak Street and 15th Street SE and 16th Street SE; and,
4. Pavement markings; and,
5. Rapid Flashing Rectangular Beacons; and,
6. Signage; and,
7. Landscaping; and,
8. Site grading and restoration.

GENERAL SCOPE OF SERVICES

The overall general scope of services anticipated to be required includes:

1. Working with city staff and City Council on the proposed final layout and improvements. Attached is the conceptual layout, Engineering Study, and Safe Routes to School plan.
2. Conduct preliminary engineering investigations, surveys, data collection, project scoping and environmental permitting and reporting, if any.
3. Coordination with potential affected property owners near the site.
4. Prepare detailed plans, alternates, specifications, and other contract documents in accordance with the State and Federal laws.
5. Coordinate with all utilities and contractors on utility relocations during construction and the design phase.
6. Secure plan and project approvals and permits through the City of Brainerd and obtain any other permits as applicable for construction.
7. Prepare construction and cost estimates for the plans and alternates, as described above.
8. Prepare bidding documents (instructions to bidders, general conditions of the construction contract, technical specifications, etc.) to secure contractors for the proposed work.
9. Answer bidders' questions, issue addenda as needed, and assist with the bid opening.
10. Prepare a bid tabulation and make a recommendation for award of the contract based on the outcome of the bidding process.
11. Provide construction staking, contract administration services, and construction inspection services including the coordination with City personnel.
12. Report, pay quantities, partial and final pay estimates, change orders, supplemental agreements, and other related contract documents.
13. Provide for public informational meetings and notices as necessary for the properties directly impacted by the construction.
14. Attend City Council meetings as needed.

SCHEDULE

1. Proposal submittals due on April 29, 2022, at 4:30 PM.
2. Project proposal review, scoring, and recommendation of firm week of May 2nd, 2022.
3. Interviews (if needed) scheduled week of May 9th with prospective proposers.
4. Firm recommended and selected by City Council on May 16th, 2022.
5. Project Development June 2022 – December 2022.
6. Bids issues January 2023.
7. Bid Opening February 2023.
8. Bids tabulated and award recommended to City Council February 2023.
9. Construction start spring 2023.

PROPOSAL REQUIREMENTS

1. A narrative describing the proposer's understanding of the project scope.
2. Identification of the principal staff and team members that will be working on the project, their role on the project, and their experience, training, qualifications, and availability.
3. Experience with other highly sensitive park projects near navigable waterways.
4. Previous experience working with State of Federal SRTS funds.
5. Proposed work plan and approach to the project including project management techniques to deliver a high quality and high value project.
6. Project schedule.
7. Summarize the anticipated involvement from City of Brainerd staff.
8. Estimated fees for the engineering design, construction and administration, contingency fee and construction survey, and staking, and construction phases of the project for providing the desired services with a "not to exceed."
9. Approach to managing cost controls on both engineering and construction services including approach to balancing the scope and cost of preliminary engineering services and controlling the unexpected construction cost overruns from change orders and supplemental agreements.
10. Past performance of key team members and firm to deliver quality work within the time constraints and budget.
11. Any other specific experience, knowledge, or abilities that uniquely qualify your firm and project team for this project.

CONSULTANT SELECTION

Consultant selection will be based upon qualifications, experience, and reputation of the key team members assigned to the project, the firm's structure and organization, availability of resources in personnel and experience, demonstrated competence and performance ability in park design, and cost. The City reserves the right to reject any and all proposals if deemed to be in the City's best interest and the City will not award a contract based solely on the lowest overall cost. The City reserves the right to interview perspective firms before recommendation and selection. Interviews, if needed, are anticipated to be performed the week of August 30th.

PROPOSAL DUE

If you are interested in submitting a written proposal to perform these services, please submit 3 copies and digital copy of the proposal to the office of the City Engineer no later than 4:30 P.M. on Friday, April 29, 2022.

Submitted proposals will be opened at 7:30 am on Monday, May 2, 2022, at Brainerd City Hall and reviewed and scored thereafter.

Proposals and any inquiries should be directed to:
Paul Sandy, P.E., City Engineer/Public Works Director
501 Laurel Street
Brainerd, MN 56401
(218) 828-2307
psandy@ci.brainerd.mn.us

February 24, 2022

Paul Sandy
501 Laurel Street
Brainerd, MN 56401

RE: 2021 Safe Routes to Schools Infrastructure Project Selection

Dear Mr. Sandy:

Thank you for submitting an application for the Minnesota Safe Routes to Schools (SRTS) infrastructure program. Your project in the City of Brainerd to improve safety for students walking and biking to Harrison Elementary was selected for SRTS infrastructure funds appropriated by the legislature in 2020 and 2021. We have identified up to \$500,000 in SRTS funds for this project.

Enclosed is a State Fund Grantee User Guide that provides a summary of the process for developing and delivering a state bond funded project. Your first step will be to request a State Aid Project (SAP) number for this project if you don't already have one (or SP number if you also have federal funding). Please send the SAP or SP number to me immediately after it is issued. Please work with your district state aid engineer (DSAE) throughout project development. Your district state aid contact is Brett Stark

Following are a few other important notes:

- Items that are eligible for SRTS funds include reasonable elements associated with pedestrian and bicycle infrastructure construction, including basic landscaping and turf establishment. Landscaping planters, benches, bike racks, decorative fences, ornamental lighting, and other aesthetic treatments above the standard are generally not eligible. Other items that are not eligible include engineering, construction administration and inspection, right of way acquisition, and water main, sanitary sewer, or private utility work. Additionally, work on trunk highways or on trunk highway right of way is not eligible.
- Your agency will be required to execute an SRTS grant agreement prior to construction, which includes certification of right of way ownership by the agency and a resolution agreeing to finance any cost in excess of the grant amount before the grant can be authorized for reimbursement.
- The plan and engineer's estimate need to be developed with a column that identifies SRTS participating items. If more than one agency will ultimately own bond funded improvements, the cost estimate will need separate columns for SRTS participating costs for each agency. Additionally, if this is the case, separate SRTS grant agreements will be required with each agency that will ultimately own bond funded improvements.
- Regardless of the project location, the design will need to adhere to State Aid standards (which may differ from guidance provided in the MnDOT Bicycle Facility Design Manual), and the DSAE will need to approve and sign plans. Additionally, you will need a funding letter from the State Aid Programs office before advertising the construction contract. The SRTS amount in the funding letter will be based on a review of eligible items in the engineer's estimate.
- The State Aid Programs office will provide additional instructions for assembling and executing the SRTS grant agreement as part of the delivery of the funding letter.
- The final SRTS amount as included in one or more SRTS grant agreements will be based on the low bid documents. The SRTS grant amount is typically capped.

- The SRTS grant agreement must be fully executed before construction begins.

If you have any questions, please contact me at mitchell.kiecker@state.mn.us.

Sincerely,

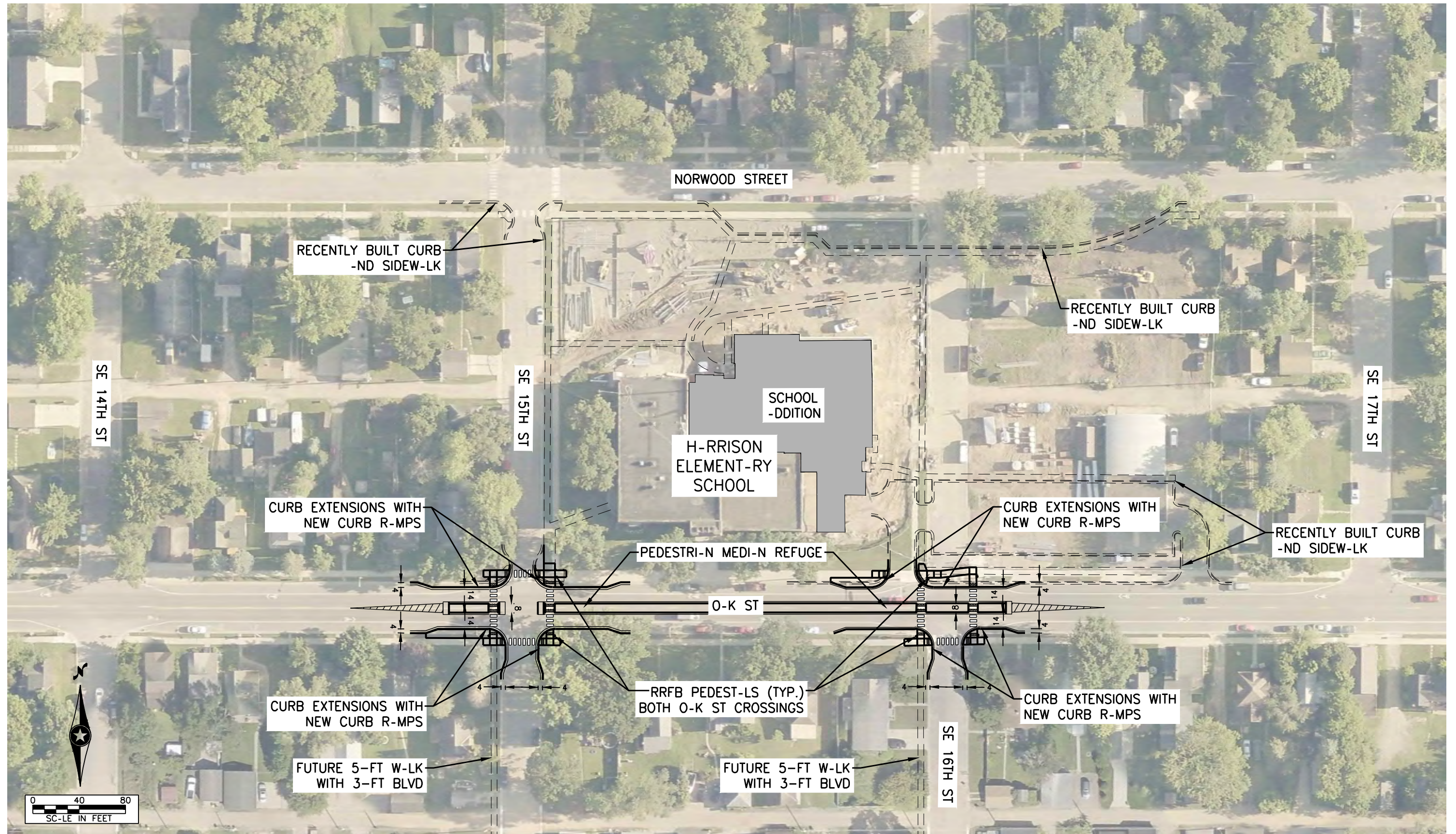


Mitch Kiecker
Safe Routes to School Infrastructure Program | State Aid Active Transportation

cc: Brett Stark, District 3 State Aid Assistant Engineer

Enclosed: State Fund Grantee User Guide
Application for reference

H:\Projects\1200012667\TrafficStudy\4_Brainerd\CAD\12667_Brainerd Concepts.dwg - HARRISON_3 // 6/7/2021 - 2:33PM



Harrison Elementary School - Option 3

Safe Routes to School
Brainerd, MN

PROPOSED PROJECTS

This section summarizes the proposed projects identified and described in Chapter 4 for each school (see Table 1 and Figure 1, Figure 2, and Figure 3). Each project and associated key elements are described in project sheets that are designed to be independently used external to this Study document for public outreach or grant applications. Pertinent information such as project location, type, description, and estimated cost are included. Detailed summaries of each project are included in Chapter 5.

Table 1. Proposed Projects

Harrison Elementary School				
C1	Oak Street – SE 15th Street and SE 16th Street	Intersection	Crossing improvements - includes curb extensions, upgraded crossing markings, and new sidewalk connections and ADA curb ramps. Includes potential median to assist with traffic calming and improving safety near the school.	\$295,000 - \$420,000
SE1	Oak Street	Sign Enhancements	Various signs/systems to enhance safety and visibility of infrastructure.	\$5,000 - \$95,000
Lowell Elementary School				
C1	H Street NE – 3rd Avenue NE and 4th Avenue NE	Intersection	Crossing improvements - includes curb extensions, upgraded crossing markings, and new sidewalk connections and ADA curb ramps.	\$270,000
SE1	H Street NE	Sign Enhancements	Various signs/systems to enhance safety and visibility of infrastructure.	\$5,000 - \$95,000
Riverside Elementary School				
C1	Williams Street and NW 4th Street	Intersection	Crossing improvements - includes upgraded crossing markings, and new sidewalk connections and ADA curb ramps.	\$25,000

¹ Order does not denote priority.

² Cost estimates for crossing infrastructure does not include pedestrian-scale lighting and were developed using the concept designs produced by SRF Consulting Group. Source: SRF Consulting Group, 2020



State Aid for Local Transportation

STATE FUND GRANTEE USER GUIDE

*Local Road Improvement Program, Local Bridge Replacement
Program, Safe Routes to School*

For bridge projects, local agency completes LBRP funding application and obtains signatures from DSAE. Local agency informs State Aid Programs Engineer that the project is beginning the design phase.

4

SEND 100% ENGINEER'S ESTIMATE TO STATE AID

For projects both with and without federal funds, local agency sends 100% engineer's estimate to DSAE. For projects with no federal funding, DSAE forwards engineer's estimate to Programs group for review and requests state funding letter. Note that bridge projects with no federal funding may or may not receive state bridge funds at this time, depending on availability of funds. Those bridge projects that cannot be funded are added to the waiting list and will be considered for funding when bridge funds become available.

For projects with federal funding, greater Minnesota DSAEs forward engineer's estimate to the CO State Aid Federal Aid group for review. CO State Aid Federal Aid group (for greater Minnesota projects) or Metro State Aid requests state funding letter from Programs group.

5

REVIEW ESTIMATE FOR ELIGIBILITY; ISSUE STATE FUNDING LETTER

Programs group reviews engineer's estimate for eligibility and issues state funding letter with initial estimate of state grant amount as well as a summary of other funding sources. Programs group works with State Aid Finance to reserve state fund grant amount in the State Aid Accounting System. Programs group also provides additional instructions to local agency related to the state fund grant agreement.

For bridge projects, Programs group issues state funding letters to projects with federal funding or other projects on the bridge waiting list when funds are appropriated by the legislature or otherwise become available. For this reason, state bridge funding availability can be unpredictable.

6

DEVELOP DRAFT AGREEMENT; ADVERTISE PROJECT AND OPEN BIDS; SEND LOW BID DOCS TO STATE AID

Local agency develops draft of the state fund grant agreement and requests review from Programs group. Concurrently, local agency advertises the project and opens bids. Local agency determines apparent low bidder and after consulting with DSAE. For projects with no federal funding, local agency sends low bid documents to State Aid Finance, with copy to DSAE and Programs group, requesting final state funding determination.

For projects with federal funds, local agency sends low bid documents to the CO State Aid Federal Aid group or Metro State Aid for final funding determination (Metro performs final funding analysis for Metro projects), with copy to DSAE. CO State Aid Federal Aid group (for greater Minnesota projects) or Metro State Aid requests final state funding determination from State Aid Finance with a copy to Programs group.

7

REVIEW LOW BID DOCS; ISSUE ENCUMBRANCE LETTER

State Aid Finance and Programs group review low bid documents and determine final state funding eligibility and state grant award amount. State Aid Finance issues encumbrance letter with final state funding determination and adjusts amount in the State Aid Accounting System.

Note that for projects that also have federal funds, the encumbrance letter will be issued after the local agency submits DCP-08.

8

COMPLETE STATE FUNDING GRANT AGREEMENT

Local agency completes the state funding grant agreement based on amounts from the encumbrance letter, including council or board resolution accepting the grant and authorizing appropriate parties to sign the grant agreement. While not required, local agencies often award the construction contract at the same council or board meeting. Local agency sends signed pdf version of state grant agreement to Programs group for final execution at MnDOT. Note that the state grant agreement should be fully executed before work begins on the project. Please contact the Programs Engineer if this will be an issue.

9

ROUTE STATE GRANT AGREEMENT FOR FINAL SIGNATURES

Programs group routes state grant agreement for final signatures at MnDOT and sends local agency a pdf of the fully executed state grant agreement.

10

SUBMIT STATE AID PAY REQUESTS TO SEEK REIMBURSEMENT WITH STATE FUNDS AFTER EXPENSES ARE INCURRED

Local agency constructs project and submits partial and final state aid pay requests to DSAE. Note that state grant funds are paid on a reimbursable basis, similar to federal funds. Local agency required to work with DSAE as it would on any other state aid project, including request final inspection and closeout.

For more information, contact:

Marc Brieese, P.E.
Programs Engineer
State Aid for Local Transportation
395 John Ireland Blvd, St. Paul, MN 55155
651-366-3802



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Approve Detour Agreement with MnDOT for S 6th Street Reconstruction

☐ 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: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request is the agreement and a resolution in which enters into the agreement with MnDOT for the use of Willow Street as a detour route for the reconstruction of S 6th Street (TH 371B) in 2022.	
Alternatives, Options, Effects on Others/Comments: MnDOT pays the city for the use of the City roadway during construction based on a road life consumed calculation that includes the tax factor, ADT, road length and duration. The total calculated payment to the city based on this method for the use of Willow Street for 70 days is \$2,408.84. This detour will be in place during the construction of the segment between Buffalo Hills Lane and Joseph Street.	
Recommended Action/Motion: Staff recommends adopting the attached resolution in which enters into the detour agreement with MnDOT and allows proper signature and amendments thereto on the agreement.	
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>	

Date: March 10, 2022

Paul Sandy
Brainerd City Engineer
501 Laurel St.
Brainerd, MN 56401

RE: Proposed Const. Agreement No. 1049552
City of Brainerd
S.P. 1814-08 (T.H. 371B = 337)
State Funds
State cost compensation for road life Consumed by the T.H. 371B detour.

Dear Mr. Sandy:

Transmitted herewith is a proposed agreement with the City of Brainerd. This agreement provides for payment by the State to the City for road life consumed on Willow St. used as a Temporary Trunk Highway detour.

Kindly present this agreement to the City Council for their approval and execution, which includes original signatures of the City Council authorized City officers, on the agreement. Also required is a resolution passed by the City Council authorizing its officers to sign the agreement on its behalf. A suggested form of such resolution is enclosed.

Electronic signatures are being encouraged. Please be advised that if electronic signatures are being utilized, that signatories must not lock the document and all parties must sign in succession on the same document. The City Council's resolution must be attached to the PDF prior to any electronic signatures. Please remove the sample resolution if the City is providing their own resolution.

Please return the signed agreement and resolution, once they have been executed by the City. A copy will be returned to the City when fully executed.

Sincerely,

Scott Zeidler
Engineering Specialist Senior

Enc. Proposed Agreement (2)
Resolution (2)

cc: CoopAgreements.DOT@state.mn.us
File

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
CITY OF BRAINERD
DETOUR AGREEMENT
For Trunk Highway No. 371B Detour**

State Project Number (S.P.):	<u>1814-08</u>	Original Amount Encumbered
Trunk Highway Number (T.H.):	<u>371B = 337</u>	<u>\$2,408.84</u>
State Project Number (S.P.):	<u>108-090-002</u>	
State Aid Project Number (S.A.P.):	<u>108-137-001</u>	
State Aid Project Number (S.A.P.):	<u>107-010-008</u>	
State Project Number (S.P.):	<u>NHPP-TA-0371(319)</u>	

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and the City of Brainerd acting through its City Council ("City").

Recitals

1. The State is about to perform grading, milling, surfacing and ADA improvement construction upon, along, and adjacent to Trunk Highway No. 371B from 0.1 miles south of 70th Avenue to Joseph Street in Brainerd under State Project No. 1814-08 (T.H. 371B = 337); and
2. The State requires a detour to carry T.H. 371B traffic on Willow Street (St.) during the construction; and
3. The State is willing to reimburse the City for the road life consumed by the detour as hereinafter set forth; and
4. Minnesota Statutes § 471.59, subdivision 10, § 161.25, and § 161.20, subdivision 2(b), authorize the parties to enter into this Agreement.

Agreement

1. Term of Agreement; Incorporation of Exhibits

- 1.1. *Effective Date.*** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2. *Expiration Date.*** This Agreement will expire when the State removes all detour signs, returns the temporary Trunk Highway detour to the City, and pays for the detour compensation.

2. Agreement Between the Parties

2.1. *Detour.*

- A. *Location.*** The State will establish the T.H. 371B detour route on the following City street as detailed in the project plans or Special Provisions:
Willow St. for a total distance of 0.52 miles.
- B. *Modification of the Detour Route.*** The State may modify the detour route or may add additional roadways to the official detour during construction. The State will request concurrence from the City

for changes to the detour route. If such change increases the States total payment amount over the maximum obligation in Article 3.2, the Agreement will be amended.

- C. **Axle Loads and Over-Dimension Loads.** The City will permit 10-ton axle loads on the detour route. Over-dimension loads will not be permitted except in cases of extreme emergency.
 - D. **Traffic Control Devices.** The State may install, maintain, and remove any traffic control devices it considers necessary to properly control the detoured traffic. The State may paint roadway markings, such as the centerline, edge lines, and necessary messages.
 - E. **Detour Maintenance.** The State will perform any necessary bituminous patching and ordinary maintenance on the roadway or shoulder of the City streets used for the detour, at no cost or expense to the City. Bituminous patching is defined as any work, including continuous full width overlays, less than 100 feet in length. All State expenditures beyond those required for bituminous patching and ordinary maintenance will be credited against the road life consumed reimbursement due the City.
 - F. **Duration.** The State will provide the City with advance notice identifying the dates the State intends to place and remove the detour signing.
- 2.2. **Basis of State Cost (Road Life Consumed).** The State will reimburse the City for the road life consumed by the detour using the following methods, as set forth in the Detour Management Study Final Report dated January 1991, and updated by MnDOT's Policy on Cost Participation for Cooperative Construction Projects and Maintenance Responsibilities between MnDOT and Local Units of Government.
- A. The "Gas Tax Method" formula, multiplies the Combined Tax Factor per mile times the Average Daily Traffic ("ADT") count of vehicles diverted from the Trunk Highway times the city street length in miles times the duration of the detour in days to determine the State's cost for the road life consumed by the detour. If an ADT changes, the parties will amend the Agreement.
 - B. The City may, at its option, perform an "Equivalent Overlay Method" analysis. A State-approved firm, at no cost or expense to the State, must perform the testing and analysis. The City will keep records and accounts to verify any claim it might bring against the State for additional costs using the "Equivalent Overlay Method".

3. Payment

- 3.1. **For Road Life Consumed. \$2,408.84** is the State's estimated cost for the road life consumed by the detour based on the data below:

<u>Detour</u>	<u>Tax Factor</u>	<u>ADT</u>	<u>Road Length (Miles)</u>	<u>Duration (Days)</u>	<u>Cost</u>
Willow Street	0.00513	12,900	0.52	70	\$2,408.84
Road Life Consumed Amount:					<u>\$2,408.84</u>

The State's total payment for the road life consumed by the detour is equal to the amount computed by using the "Gas Tax Method" formula plus any amount determined by using the "Equivalent Overlay Method" analysis that is in excess of twice the "Gas Tax Method" amount.

- 3.2. **Maximum Obligation. \$6,000.00** is the maximum obligation of the State under this Agreement and must not be exceeded unless the maximum obligation is increased by execution of an amendment to this Agreement.

3.3. Conditions of Payment. The State will pay the City the State's total road life consumed payment amount after performing the following conditions.

- A. Execution of this Agreement and the City's receipt of the executed Agreement.
- B. State's encumbrance of the State's total payment amount.
- C. State's removal of all detour signs.
- D. State notifies the City of the removal of the detour signs, and the number of days the detour was in effect.
- E. State's receipt of a written request from the City for payment.

4. Release of Road Restoration Obligations

By accepting the State's road life consumed payment plan and total payment amount, the City releases the State of its obligation, under Minnesota Statutes § 161.25, to restore the city streets used as a T.H. 371B detour to as good of condition as they were before designation as temporary trunk highways.

5. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

5.1. The State's Authorized Representative will be:

Name, Title: Scott Zeidler, Engineering Specialist Sr. (or successor)
 Address: 7694 Industrial Park Road, Baxter, MN 56425
 Telephone: (218) 828-5800
 E-Mail: scott.zeidler@state.mn.us

5.2. The City's Authorized Representative will be:

Name, Title: Paul Sandy, Brainerd City Engineer (or successor)
 Address: 501 Laurel St., Brainerd, MN 56401
 Telephone: (218) 828-2307
 E-Mail: psandy@ci.brainerd.mn.us

6. Assignment; Amendments; Waiver; Contract Complete

- 6.1. Assignment.** No party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 6.2. Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 6.3. Waiver.** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 6.4. Contract Complete.** This Agreement contains all prior negotiations and agreements between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

7. Liability

The City and State will be responsible for their own acts and omissions, to the extent authorized by law. Minnesota Statutes § 3.736 governs the State's liability. Minnesota Statutes, Chapter 466 governs the liability of the City.

8. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the City's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

9. Government Data Practices

The City and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause by either the City or the State.

10. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation, and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

11. Termination; Suspension

11.1. *By Mutual Agreement.* This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.

11.2. *Termination for Insufficient Funding.* The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the City. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the City will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

11.3. *Suspension.* In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance, and payments authorized through this Agreement. Any work performed during a period of suspension will be considered unauthorized work and will be undertaken at the risk of non-payment.

12. Force Majeure

No party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

[The remainder of this page has been intentionally left blank]

STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statutes § 16A.15 and 16C.05.

Signed: _____

Date: _____

SWIFT Purchase Order: 3000631582

CITY OF BRAINERD

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION

Approved:

By: _____
(District Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

By: _____
(With Delegated Authority)

Date: _____

INCLUDE COPY OF THE RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

RESOLUTION
NO _____

**DETOUR AGREEMENT WITH
THE STATE OF MINNESOTA
SP 1814-08
S 6TH STREET (TH 371B) RECONSTRUCTION**

WHEREAS, the State will perform grading, bituminous milling, bituminous surfacing, ADA improvements, retaining wall, lighting, and signal system construction and other associated construction upon, along and adjacent to Trunk Highway 371B from 1,000 feet south of 70th Avenue to Joseph Street according to the State-prepared plans, specifications, and special provisions designated by the County and the City as State Aid Project No. 108-010-008, by the City as State Project No. 108-090-002 and State Aid Project No. 108-137-001, and by the State as State Project No. 1814-08 (TH 371B=337).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRAINERD, MINNESOTA, that the City of Brainerd enters into MnDOT Agreement No. 1049552 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the City for the use of Willow Street as a detour route during the construction to be performed upon, along, and adjacent to Trunk Highway No. 371B from 1,000 feet south of 70th Avenue to Joseph Street in Brainerd under State Project No. 1814-08 (T.H. 371B = 337).

BE IT FURTHER RESOLVED that the Mayor and the City Administrator are authorized to execute the Agreement and any amendments to the Agreement.

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Consideration of Bids and Contract Award - CLT NP Center Segment Bids

☐ 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: City Engineer/Public Works Director Sandy	Department: Engineering
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Bids for the NP Center Segment of the Cuyuna Lakes State Trail Construction were opened on March 18, 2022 at 10:00 AM.	
Alternatives, Options, Effects on Others/Comments: Because the bid opening was on the Friday after the packet went out, staff will have the bids available at the meeting for consideration of award.	
Recommended Action/Motion: Consideration of the award of the NP Center Segment of the Cuyuna Lakes State Trail Project.	
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>Unknown</u> <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i> This trail project will utilize the funds appropriated from the DNR for construction. A portion of the project will not be DNR eligible, and consists of the agreement between the City and Mike Higgins.	

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

March 21, 2022

7:00 PM

WebEx Teleconference Call-In Information

Call Toll-Free: 1-844-992-4726

Access Code: 2483 331 1114

1. Approve Memoranda of Agreements (MOA) Regarding Effective Date for 2021 IUOE Central Pension Fund
2. Discussion on How to Implement the Street Lighting Policy
3. Consider Proposals for Charter Contributions Organizations
4. Update on the Request for Funds to be Returned from Lakes Area Media Collaborative



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Approval of MOAs for 2021 IUOE Central Pension Fund Effective Date

☐ INFORMATION ONLY ☐ CONSENT AGENDA ☒ P&F COMMITTEE ☐ SPW COMMITTEE ☐ MAIN AGENDA	Action Requested: ☒ Approve/Deny Motion ☐ Adopt Resolution (attach draft) <i>*provide copy of published hearing notice</i> ☐ Direction Requested ☐ Discussion Item ☐ Hold Public Hearing* ☐ Ordinance 1st Reading
Submitted by: Kris Schubert, HR Director	Department: Human Resources
Presenter (Name & Title): Kris Schubert, HR Director	Estimated Time Needed: 1 minute
Summary of Issue: The IUOE Central Pension Fund recently conducted an audit of our city payroll records regarding the 2021 Central Pension Fund contributions from its union members. During the audit, a discrepancy was found between the 2021-2022 IUOE Local No. 49 Union contract language which reflected the Union's proposal to increase the contribution on January 1, 2021 versus when the increased contributions actually started. The attached Memorandums of Agreement (MOAs) updates the language for both the 2021-2022 IUOE Local No. 49 Street and Parks Department Union Contracts to reflect when the change actually occurred which was the first payroll in April 2021. Please note those contributions are only payroll deductions from the represented employees and the Employer does not contribution to the IUOE Central Pension Fund.	
Alternatives, Options, Effects on Others/Comments: We finalized the 2021-2022 IUOE Local 49 union contracts for both the Street and Parks Departments in March of 2021. One of the proposals that was approved was to increase the IUOE Central Pension Fund contributions for both 2021 and 2022. When we settled the contracts, we worked with union representatives to verify if the contributions could be made going forward after the contract was signed vs. retroactive to January 1, 2021. The delayed implementation date was negotiated for administrative convenience. The Union agreed that the change could be made going forward and the attached MOAs document our agreement for the Central Pension Fund.	
Recommended Action/Motion: Motion to approve the attached MOAs between the City of Brainerd and IUOE Local No. 49 to amend the 2021-2022 Union Contracts which corrects the effective date to the first payroll in April 2021 for the increased 2021 Central Pension Fund contributions for its members.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☒ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☒ Yes ☐ No <u>Please Explain:</u>	

INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL NO. 49, 49A, 49B, 49C, 49D, 49E, 49L
MINNESOTA • NORTH DAKOTA • SOUTH DAKOTA

CLAYTON J. JOHNSON, President
RYAN P. DAVIES, Vice President
STEVE R. PIPER, Recording-Corresponding Secretary
OSCAR J. SLETTEN, Treasurer



JASON A. GEORGE
Business Manager/Financial Secretary

2829 Anthony Lane South, Minneapolis, MN 55418-3285
Phone (612) 788-9441 • Toll Free (866) 788-9441 • Fax (612) 788-1936

March 4, 2022

RE: Contribution Clarification

Dear Mr. Kevin Chung,

Thank you for contacting me regarding the agreements for the City of Brainerd Streets Dept. (acct # 189586) and Park & Recreation Dept. (acct # 189623). The City of Brainerd administration is correct, the agreements were not finalized until March 2021 and the members were notified and agreed to have their pension rate increase effective on the first payroll in April 2021 instead of January 1, 2021.

I am sorry for not adjusting the date in the agreements to match the increased pension rate in April 2021. I hope this letter resolves the issue with the City of Brainerd.

Please contact me if you have any further questions or concerns.

Sincerely,

Todd E. Dionne

Business Representative

I.U.O.E. Local #49

218-407-7913

tdionne@local49.org



Memorandum of Agreement

Between

The City of Brainerd Street Department

And

The International Union of Operating Engineers, Local 49

This Memorandum of Agreement (“MOA”) is hereby entered into between the City of Brainerd (hereinafter, “City”) and International Union of Operating Engineers, Local 49 (hereinafter, “Union”), on behalf of Street Department bargaining unit (hereinafter, the “Bargaining Unit”). The City and the Union are hereinafter referred to collectively as the “parties,” and individually as a “party.”

WHEREAS, the City and the Union are parties to a Collective Bargaining Agreement (“Agreement”) in effect from January 1, 2021 through December 31, 2022; and

WHEREAS, this Memorandum of Agreement (“MOA”) is intended to address the Central Pension Fund in Article XV; and

WHEREAS, in relevant part, Article XV of the Agreement provides: “...Effective January 1, 2021, the employee’s contribution amount will increase by \$.75 to \$2.25 per hour. Effective January 1, 2022, the employee’s contribution amount will increase by \$.15 to \$2.40 per hour...”

WHEREAS, the Union and City agreed to a different effective date for the increases identified in Article XV of the Agreement, but did not record their agreement in the Agreement itself; and

WHEREAS, the parties wish to change to effective date of the increased contribution to the Central Pension Fund described in the Agreement to correspond with their mutual agreement expressed during negotiations.

NOW, THEREFORE BE IT RESOLVED AND STIPULATED that the parties mutually agree as follows:

1. Effective March 22, 2022, Article XV of the Agreement will be amended to read, in relevant part:

... Effective the first payroll in April 2021, the employee’s contribution amount will increase by \$.75 to \$2.25 per hour. Effective January 1, 2022, the employee’s contribution amount will increase by \$.15 to \$2.40 per hour....
2. All other terms and conditions of the Agreement, including the remainder of Article XV will be unchanged.

3. Non-Precedential. The parties acknowledge that this MOA shall not be deemed to constitute a precedent or create a past practice which would be applicable to any other member of the bargaining unit or classification identified in the Agreement or be admissible in any arbitration proceeding or other proceeding involving a dispute between the parties as evidence of a precedent or past practice.
4. Complete Agreement. The terms of this MOA are contractual and supersede any and all prior agreements between the parties relating to the subject matter of this MOA. No waiver or modification of any provision of this MOA is valid unless it is in writing and signed by all parties.
5. Equal Drafting. This MOA shall be construed to have been drafted equally by the parties.

IN WITNESS WHEREOF, the parties have executed this MOU on March 21st, 2022.

Todd Djonne
Area Business Representative
International Union of Operating Engineers, Local 49

Jennifer Bergman
City Administrator
City of Brainerd

Memorandum of Agreement
Between
The City of Brainerd
And
The International Union of Operating Engineers, Local 49

This Memorandum of Agreement (“MOA”) is hereby entered into between the City of Brainerd (hereinafter, “City”) and International Union of Operating Engineers, Local 49 (hereinafter, “Union”), on behalf of Parks bargaining unit (hereinafter, the “Bargaining Unit”). The City and the Union are hereinafter referred to collectively as the “parties,” and individually as a “party.”

WHEREAS, the City and the International Union are parties to a Collective Bargaining Agreement (“Agreement”) in effect from January 1, 2021 through December 31, 2022; and

WHEREAS, this Memorandum of Agreement (“MOA”) is intended to address the Central Pension Fund in Article XV; and

WHEREAS, in relevant part, Article XV of the Agreement provides: “...Effective January 1, 2021, the employee’s contribution amount will increase by \$.20 to \$1.20 per hour. Effective January 1, 2022, the employee’s contribution amount will increase by \$.20 to \$1.40 per hour...” and

WHEREAS, the Union and City agreed to a different effective date for the increases identified in Article XV of the Agreement, but did not record their agreement in the Agreement itself; and

WHEREAS, the parties wish to change to effective date of the increased contribution to the Central Pension Fund described in the Agreement to correspond with their mutual agreement expressed during negotiations.

NOW, THEREFORE BE IT RESOLVED AND STIPULATED that the parties mutually agree as follows:

1. Effective March 22, 2022, Article XV of the Agreement will be amended to read, in relevant part:

... Effective the First payroll in April 2021, the employee’s contribution amount will increase by \$.20 to \$1.20 per hour. Effective January 1, 2022, the employee’s contribution amount will increase by \$.20 to \$1.40 per hour...
2. All other terms and conditions of the Agreement, including the remainder of Article XV will be unchanged.

3. Non-Precedential. The parties acknowledge that this MOA shall not be deemed to constitute a precedent or create a past practice which would be applicable to any other member of the bargaining unit or classification identified in the Agreement or be admissible in any arbitration proceeding or other proceeding involving a dispute between the parties as evidence of a precedent or past practice.
4. Complete Agreement. The terms of this MOA are contractual and supersede any and all prior agreements between the parties relating to the subject matter of this MOA. No waiver or modification of any provision of this MOA is valid unless it is in writing and signed by all parties.
5. Equal Drafting. This MOA shall be construed to have been drafted equally by the parties.

IN WITNESS WHEREOF, the parties have executed this MOU on March 21st, 2022.

Todd Djonne
Area Business Representative
International Union of Operating Engineers, Local 49

Jennifer Bergman
City Administrator
City of Brainerd



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Consider Proposals for Charter Contribution Organizations

☐ 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: Jennifer Bergman	Department: Administration
Presenter (Name & Title): Jennifer Bergman, City Administrator	Estimated Time Needed: 10 Minutes
Summary of Issue: The Council amended the Charter in 2021 which changed the language of the contributions to fund organizations. Instead of referencing a specific organization, the language now provides contributions to organizations that provide community action programs/events, programs that benefit senior citizens and arboretum or green space organizations within the city limits of Brainerd. In addition, the language was changed from providing 1/2 Mill to 1.5% of the previous years levy to an organization in each category (see attached). The Council appointed Councilman Erickson and Stunek to a subcommittee to review the Request for Proposal (RFP) and make a recommendation to the Council who approved the RFP at their February 7th meeting. The RFP was released on February 8th and proposals were due on March 10th.	
Alternatives, Options, Effects on Others/Comments: The City received one proposal for arboretum or green space from the Northland Arboretum; one proposal for events from Brainerd Community Action; and, two proposals for senior citizen programs/organizations from The Center and Be A Pal (see attached).	
Recommended Action/Motion: Discuss proposals in each category and make a recommendation for funding.	
Financial Impact: Is there a cost associated with this request: ☒ Yes ☐ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☒ Yes ☐ No <u>Please Explain:</u> The City is required to levy 1.5% of the previous years levy per Charter.	

cent of the estimated tax collection for this fund, over and above the aggregate amount of all such certificates theretofore issued, then and under such circumstances the earliest maturing certificates of the next succeeding issue shall be made to mature at such times and in such manner as to assure payment thereof out of, and at the time of collection of, such prior unused or unappropriated margin of such eighty (80) per cent of such estimated tax collection. If in any year the taxes collected for this fund shall not be sufficient to pay the certificates maturing in that year, the deficit shall be paid from the general fund. The earliest maturing certificates of the first issue hereunder shall mature on the first day of December in the year following the year of their issuance, and the other certificates in such issue, to mature later and serially, shall be distributed in succeeding serials and follow in such order of maturity that eighty (80) per cent of the estimated tax collections, year by year, will pay such certificates in each and every year thereafter. Neither the City Council nor any officer of the City shall in any year appropriate, expend or disburse any part of this fund, or do any other act therewith, at such time or in such manner as to render the available balance thereof insufficient to pay, when due, the certificates maturing in that particular year. The City Council shall, at the proper time, and from time to time, prepare for every issue and sale of such re-paving certificates of indebtedness by appropriate resolution setting forth in sufficient detail the date of issuance, number or quantity, specific denominations, and various dates of maturity thereof, the rate of interest thereon, and the nature or character, location, extent, and approximate total cost of the particular improvement on which the same are founded. The sale of such certificates of indebtedness shall be made, conducted, and carried on in the manner provided for sales of bonds under the certain provisions of section 49 of the City Charter, as herewith amended; provided, further, that no certificate shall be sold for less than par and accrued interest.

3. That annual amount to be levied for general taxation in any year for all said funds shall not exceed the amounts as established by state statute. There shall be a levy of 1.5% of the previous year's total City levy for an entity within the city limits of Brainerd to provide community action programs and events.
4. There shall be a levy of 1.5% of the previous year's total City levy for the establishment and maintenance of a program for the benefit of senior citizens or to a subsidized non-profit senior citizens organization within the city limits of Brainerd.
5. There shall be a levy of 1.5% of the previous year's total City levy an arboretum or green space organization within the city limits of Brainerd.

Northland Arboretum Proposal



City of Brainerd RFP: *Arboretum or Green Space Organization*

Response from Northland Arboretum (aka Paul Bunyan Arboretum)

Deadline: March 10th, 2022

1. A narrative describing the organizations mission, vision, and goals.

The Northland Arboretum has been a staple of the Brainerd community since it became a nonprofit organization in 1974. Previously a landfill, our organization has a “trash to treasure” narrative which shows the perseverance of our residents and the value the Northland Arboretum provides to the community. Over the years, the Northland Arboretum’s programming has evolved with changing times but at the core, three pillars of strength remain holding the organization together: Education, Recreation, and Conservation. It is beneath these pillars that the organization has been able to endure tough times, and it is upon these pillars we will build a strong foundation as we recover from a pandemic.

With a new leadership team in place, the Northland Arboretum has recently conducted a strategic planning process resulting in a new mission and vision of our organization as well as newly defined value statements. We are dedicated to utilizing these tools to make a significant impact on the residents of Brainerd in the next several years. The overarching vision for our Arb is to be a place where the community respects and connects with the natural world. Our mission is to *be a valued community asset providing outdoor recreation and educational activities for all while protecting the natural environment*. As we move forward with our strategic plan and navigate the unknown terrain coming out of a pandemic, we lean on our identified core values:

We are stewards of the natural world.

We are a place for the community to feed the mind, body, and soul.

We are welcoming and accessible to all.

We are a place for lifelong learning.

Our strategic plan identified several gaps in our programming, infrastructure, and capacity. Each goal falls into one of seven categories and is clearly outlined with objectives and actionable items. One of our biggest lifts falls under our Education and Recreation category (Strategy II) with the goal to provide programming that creates positive connections between people and nature. The strategy behind this goal has many layers. There are proven positive trends among individuals who connect with nature on a regular basis and their mental health. We believe the Arb can significantly improve our community health by providing opportunities to be mindful in nature. In addition, we believe good stewards of our planet are grown from sparks of curiosity. Those sparks must be fed and nurtured with hands-on nature experiences for all ages so that we may make those positive connections, healing both our planet and our visitors.

One objective underneath our education goal is to enhance our nature-based programs by hiring an Education Coordinator who will develop and implement curriculum to share with groups without abundant greenspace readily available to them. We also would like to solve the transportation barrier that some groups or individuals may experience by bringing nature-based programs to them thereby helping people realize that connecting with nature can be done in their own backyard or on a neighborhood stroll. Some of the foundation for this objective is currently underway by our current GreenCorps service member who is building relationships with Harrison Elementary, Discovery Woods, and Garfield Elementary.

Improvements to our key infrastructure is a key goal that is necessary to the overall operations of the Arb. We are not able to sustain a beautiful 420-acre greenspace for the community without the proper tools and resources. One such resource in dire need of repair or replacement is the maintenance building, one of the original structures for the organization. The organization has recently grown in capacity and increased its public awareness; therefore, a secure, multi-purpose structure to serve as a shop, maintenance office, additional public restroom facility, a homebase for volunteers, and an organized and safe storage unit to keep valuable assets out of the elements is needed. This building will be a necessary component to ensuring our grounds, gardens, and trail systems provide an excellent nature experience for all who visit, including a great first impression to tourists who bring financial means to the Brainerd community.

Additional details surrounding our goals and objectives can be found in our attached 2022-2024 Strategic Plan.

2. Describe the green space or arboretum and programs provided by your organization and how it is currently available and will be made available for Brainerd residents

The Northland Arboretum's unique property is the most valuable asset to the organization and the most enjoyable for visitors and members. The 420 acres of greenspace provides excellent, year-round opportunities for recreation and nature observation for Brainerd residents. We provide a 12-mile trail system which converts from hiking and jogging trails in the warm weather months, to meticulously groomed cross-country ski trails in the winter. The ski trails contain 2.5 miles of lighting so skiers may have a safe and comfortable place to stay active in the winter months. For those that enjoy a quiet stroll through our snowy forests, there is a 2-mile snowshoe route separate from the ski trails that provides a less intimidating way for Brainerd residents to stay active in the winter months. During the summer, the trails are lined on either side with tall pines, maples, oaks, and elms. Walking the trails is a get-away experience conveniently located right in the center of our urban landscape. It is a place of solitude. A place to rest your mind and connect with nature.

In addition to the trail system, there are hundreds of acres of natural habitat for the community to enjoy and explore. Whether you want to feel lost in groves of spruce and pine or feel the breeze in the open prairie, there is a natural area to fit your mood. The Arb property boasts a Jack Pine Savanna, a 70-year-old Red Pine stand, prairie restoration areas and the Whiskey Creek watershed flows through the Arboretum. This special ecosystem provides habitat to beavers, otters, and a wide variety of birds while flowing into the mighty Mississippi river. Located just a few steps from the Arboretum's visitor center, the creek provides great observation to wildlife but also reminds us of human impact on critical waterways, providing opportunity for learning land stewardship. Our grounds are considered home to endangered, protected, or threatened wildlife, such as Blanding's turtle, the eastern hognose snake, rusty patched bumble bees, bald eagles, and a variety of owls. It is our protected and expertly managed habitats that have allowed the Arboretum to be identified as an Important Bird Area (IBA) by the Audubon Society and be a Certified Monarch Waystation by The Monarch Watch Organization.

Throughout the grounds, the Arboretum gardens are home to a variety of plants, including rare species like the showy pink lady slipper, pasqueflower, prickly pear cactus, and native plants for all visitors to enjoy. Spring and Summer flora bring photographers and gardeners to the Arb in search of beauty. With over a dozen designated gardens, each with their own uniqueness, visitors enjoy learning about native plants, cultivars, trees, and shrubs. Many gardens have places to sit quietly and enjoy the greenspace and a few even have water features that create an experience for all senses. Strong partnerships with the University of Minnesota Master Gardener program ensure all plants are meticulously cared for, well-marked and provide an educational component to a simple garden walk.

Our educational programming is another amazing value for Brainerd residents. Our paid staff and volunteer instructors provide vast knowledge of the natural world and assist residents in

identifying their interests and pursuing their passions. Our adult nature-based classes range from gardening to beekeeping, identifying trees and invasive species, learning how to protect pollinators, and supporting wildlife. The skills and knowledge taken from these classes are shared with others and used to improve their own properties and greenspaces, contributing to the environmental health and beautification of the City of Brainerd. Our youth-focused nature programming is a major benefit to the community as well. Children who participate in nature-based education are encouraged to take risks, play freely, practice creative thinking skills, and test themselves physically and mentally. The Arb has impacted over 100 children already this year with our youth programming, developing healthy children who will grow into resilient and conscientious adults. Without a doubt, we are significantly impacting children's health and contributing to the overall wellbeing of the Brainerd community.

The Northland Arboretum is a member-supported nonprofit and currently serves 1,100 members as well as the general public. The Arb experiences approximately 25,000 annual visits through its vast nature-based programming. Our convenient location makes the Arb a prime destination for Brainerd residents who choose to stay active outdoors all year round. We continue to keep our membership rates affordable, starting at only \$15 per year for students. There are many benefits that come with a Northland Arboretum membership which Brainerd residents can take advantage of including free entrance for the full year. The Arb also supports many nonprofits by hosting their events and meetings for free. We are seen as the homebase for many organizations and groups including Brainerd Garden Club, the Master Naturalists, Master Gardeners, etc.

In addition, the Arb reaches beyond its borders to impact Brainerd residents. A partnership with the City of Brainerd Parks and Recreation department will result in a city-wide Spring clean-up day by Arboretum volunteers and city staff. Virtual workshops were conducted during COVID for local elementary classrooms. A strengthening partnership with the Crow Wing County Master Gardeners resulted in a Giving Garden which contributed an estimated 1,800 pounds of food to residents of Brainerd.

As a part of our three-year strategic plan, the Arboretum hopes to reach even more Brainerd residents by increasing the capacity of our staff and volunteer base. We will do this in partnership with the Master Gardeners, Master Naturalists, YMCA, Wondertrek, Crow Wing Energized, The Nature Network collaborative, and more. Utilizing these partnerships ensures we are using our funds in the most efficient way possible and impacting the highest number of residents. Meeting Brainerd residents where they are as well as raising awareness of the Arboretum's immense greenspace available to them while also helping them understand the health impact of being outdoors is a significant focus for us.

3. Describe the property and facilities and how they are suited to the programs and activities offered.

One of the greatest strengths of the Northland Arboretum has always been its location and its history. Known as the “central park” of Brainerd, the Arb is conveniently located just east of State Highway 371 and only two blocks from State Highway 210, making it a central location for Brainerd residents, and an easy-to-find destination for visitors. The pandemic significantly increased the value of the Arb as a safe, well-maintained greenspace and Brainerd residents took comfort in being able to maintain social distancing while still being physically active and maintain relationships with friends and family. The Arb has always provided a place of solitude and mindful retreat, but we have only recently come to realize the positive impact our arboretum has on our community mental health and wellbeing.

The Arboretum manages 420 acres in collaboration with Crow Wing County and The Nature Conservancy. These partnerships ensure we have excellent communication with essential players in the political and conservation spheres. Crow Wing County and the Arboretum currently have 74 years remaining on their 100-year lease agreement and are confident in the partnership and progress being made. The county has allowed the Arb to make essential improvements to the grounds which allow us to maintain a great first impression and continue to enhance our educational and recreational programming. The Nature Conservancy’s partnership allows us to stay updated on conservation best practices and maintain their site appropriately so that it may be shared with future generations. Both of these partnerships ensure the Northland Arboretum’s land is in its best shape for the Brainerd community and for us to perform high-quality, nature-based programming and provide a safe space for recreation.

The grounds alone have a lot to offer the residents of Brainerd. As described in Section 2, we have a vast trail system available to Brainerd residents including a fitness trail that is handicap accessible. We provide a variety of natural habitats to explore and observe including wetlands, Jack Pine Savanna, gardens, prairies, beaver pond, Red Pine stand, and more. Each ecosystem provides its own unique experience for visitors and allows us to provide a plethora of knowledge about our natural world and how to be good stewards of it. There is no other community besides Brainerd that provides this distinct combination of habitats in such condition and with such accessibility. It really is a unique asset to hold.

The property is also perfect for anticipated community events such as the Haunted Trail held annually in October, Sertoma’s Winter Wonderland light display in December, and the Lumberjack Ski Race held in January. Thousands of participants and spectators get to experience this beautiful nature preserve in each season, and the residents of Brainerd are fortunate that it is just a stone's throw away. These attractions also bring in significant dollars

to Brainerd businesses by appealing to outside communities and would not be possible without our expansive Arboretum grounds, dedicated staff, and generous volunteers.

Another large asset of the Arb is the 12,000 square foot visitor center which is a multi-purpose space that serves as another source of revenue for our nonprofit. As you walk into the building you are greeted by a front desk volunteer who is knowledgeable of the trail systems, gardens and programs. Summer or winter maps are available depending on the time of your visit and specify information about the ski and trail etiquette. The lobby space is adorned with nature displays and replicas which spark interest with all visitors. For those that want to expand their knowledge, a nature library is available in our conference room and members can check out books at their leisure. A Kids Corner is a comfortable and welcoming place for children to rest from a hike around the grounds. They can color, look at nature books, or check out our new Nature Knapsack program. The visitor center's large meeting spaces make our educational programming possible by providing safe, covered spaces when there is inclement weather or when Minnesota winters force programming indoors. Within these spaces we are also able to utilize technology when we are not able to do in-person classes or workshops. During the pandemic, this virtual component to our educational programming was necessary to continue to share our mission with the Brainerd community.

We make full use of our large meeting spaces and grounds by renting them out for parties and events. Not only does this provide an extra source of revenue for our mission, but we are able to raise awareness of our nonprofit. It has also been a way for us to support other nature-focused or nonprofit organizations in Brainerd community. For example, the Brainerd Garden Club uses the Arb as a homebase for their monthly meetings, Smiles for Jake hosts committee meetings, Brainerd Master Naturalists hold their certification courses from our lower level, and Central Lakes College utilizes our grounds for research and observation.

In addition, the visitor center serves as a great trailhead to the Paul Bunyan State Trail which sees a lot of traffic throughout the year. Regardless of whether those visitors are utilizing the Arb's property, the visitor center is open to them as a place to rest from the elements, fill up water bottles, and use the restroom facilities. These are just a few examples of how our organization is utilized by the Brainerd community. Without the Northland Arboretum the Brainerd community would simply not be the same.

4. Describe how your organization will market and reach out to Brainerd residents

Through our strategic planning process, the Arb leadership team identified a strengths and gaps in our marketing strategies. One of our goals was to install signage at the corner of Conservation Drive and Excelsior that would allow residents to be more aware of our programming and year-round recreational opportunities. This project was made possible by a

private donor and installed in October of 2021. We also identified opportunities with our online marketing including our social media platforms and website. The Northland Arboretum has developed a Marketing Committee made up of Arboretum Board members and marketing professionals to meet our goals going forward. (See Committee Roster attached)

Some of our marketing and outreach strategies involve an Education and Outreach Coordinator role we hope to add to our team. This person would serve in an outreach capacity and ensure we have great communication with our members, partners and organizations we serve. This person will also give us the capacity to have a dedicated Arb staff attend Brainerd events, festivals, and markets and stay face-to-face with residents. Currently, we have a dedicated Membership Coordinator on staff whose responsibility is to develop great relationships with Arboretum members, notify them of upcoming events and workshops, discuss needs, and provide an overall excellent experience for them. The Membership Coordinator is also responsible for recruiting and sustaining our Business Memberships, consisting of supportive Brainerd businesses like Mickey's Pizza & Subs, Ascensus, and Atek. The extra outreach capacity would help us reach beyond our immediate membership.

The Arb will continue using existing marketing and outreach strategies to reach Brainerd residents. Many supportive local businesses post event flyers on their community boards. Staff post activities, workshops and events in the Community Education publication in partnership with the school district. We also utilize the schools when appropriate to reach more children and families. Building connections within the schools with principals, teachers, and Parent-Teacher Associations has proven very beneficial in our outreach goals.

The most successful way to reach the whole community has been increasing our engagement and dedication to social media platforms and investing in the organization's website. Facebook has been a great way to share events and answer participant questions quickly. We have seen a significant increase in engagement on our social platforms which proves there is an interest in our mission and services. Our website now has an option for people to subscribe to our e-newsletter, so they are aware of what is happening at the Arb. A revamped membership page has also helped provide a seamless way to renew Arb memberships or start one. Our boost in membership over the last year has shown that this has been a great service to the community.

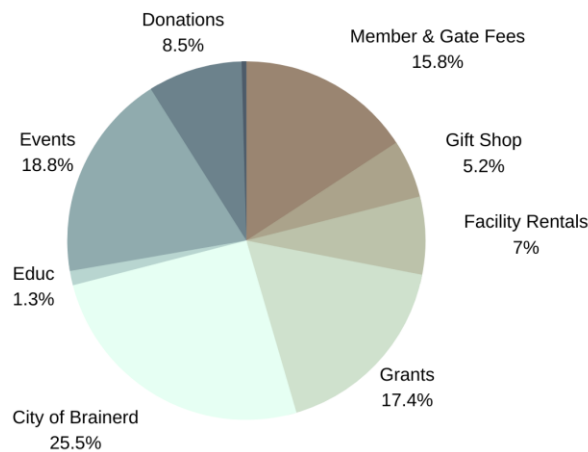
Our thriving partnerships have also helped us reach and serve more Brainerd residents and use our funds efficiently. Our collaboration with the Brainerd YMCA has been essential in understanding needs, providing outdoor space for children, and providing quality nature-based programming for additional residents. (See support letter from YMCA Executive Director attached) The YMCA also shares our events and activity information and collaborates with us on youth programming, reaching even more people in the Brainerd community. Our partners also help make our community events possible. Free events, such as our upcoming Arbor Day event,

attract many people to our grounds so we may build a relationship with more Brainerd residents and share the benefits of nature and our organization.

5. Describe how the funding from the City of Brainerd will be used

We have been very grateful for the City of Brainerd funding, especially during the pandemic when significant revenue streams were taken away from us. For the most part, Brainerd funding is used to keep our visitor center accessible to Brainerd residents and visitors and provides staff capacity so that we may create great recreational and educational experiences surrounding nature. Maintaining a 12,000 square-foot visitor center is no easy feat. Most organizations have seen an increase in utilities, insurance, general maintenance and supplies. Not to mention the current job market and having to retain excellent staff while competing with wages and benefits that are beyond any nonprofit capabilities. Being able to depend on City of Brainerd funding provided by Brainerd residents has meant we can budget our staff, maintenance, and educational programming appropriately regardless of how the pandemic affected other revenue streams.

The graph below shows the Arboretum's income for the 2020-21 fiscal year which was provided to the City Council as a part of our annual presentation. As you can see, the City of Brainerd funds make up about 25% of our operational budget. We hope to continue a positive relationship with the City of Brainerd and its residents by targeting our nature-based youth programming to Brainerd elementary schools, maintaining a great partnership with the Brainerd YMCA, fostering a stronger relationship with Brainerd Parks and Recreation, and staying involved in Brainerd hosted events and activities. We are proud to be a part of this community and believe your funds will help us continue to climb, recover from the pandemic and grow our programming for our residents to enjoy and learn.



FISCAL YEAR 2020-2021
TOTAL REVENUE \$360,970.15

6. Provide a narrative describing the organizations experience in providing programs

Historically, the Northland Arboretum has done an excellent job evolving and enhancing programming to meet community needs throughout its nearly 50-year footprint in the community. When it was established, the Northland Arboretum was simply a nature preserve meant to bring beauty and enjoyment to Brainerd residents after the land was tormented by landfill usage. As the community rallied behind our nonprofit, structured activities began to form led by the Director (as the only staff member at the time) and volunteers. Throughout the 1970's and 80's, programming focused primarily on gardening and preservation. Sharing skills like canning to preserve nature's bounty was an essential skill and made a significant impact on families who did not have steady income or resources.

As the organization grew and more land was acquired, our curriculum topics evolved, more staff and volunteers came onboard, and an additional conservation focus was brought to the forefront. As naturalists and conservationists, the founders of the Arb realized that if this beautiful nature preserve was to be protected, there needed to be advocates and partners engaged in its mission. Teaching conservational practices means we can operate as a strong nonprofit and foster environmental stewardship within the participants of our programming.

Currently, our nature-based curriculum varies depending on participant and member feedback. Our Education Committee meets monthly to discuss topics, participation, attendance, and success of each program we provide. This community involvement ensures our staff and volunteers are making the most impact. Popular topics have included beginner classes which spark curiosity and encourage involvement in nature's process. Adult workshops focused on beekeeping, maple syrup harvesting, mushroom cultivation, straw bale gardening,

and winter sowing all build confidence and prepare the participants for the next step of their journey. Another layer to our programming is the element of helping individuals and families become self-sufficient. Learning to grow produce encourages families to eat healthier and spend less on groceries. Teaching someone about beekeeping sparks an entrepreneurial spirit to produce another source of income for their family. Classes on native plants inspire landowners to grow less lawn and plant prairie habitats on their own property which encourages wildlife.

We also focus on nature-based programming for youth; however, this is an area that we would like to grow as an organization. We currently operate nature camps which encourage children to spend time outdoors. The most recent nature camp was held during winter break for children grades K-4th grade. It was a very successful program that impacted 18 kids by encouraging free play, imagination, nature-immersion and creative thinking. Over half of those children were Brainerd residents, which showed that our marketing was successful in reaching Brainerd families. Looking ahead, we have partnered with the Master Gardeners again to host Gardening 101 classes for youth and adults. We also have a summer nature camp planned for each Thursday from June to August 2022. New programming to encourage young women and girls to get outdoors and build confidence is also on the horizon.

Our partners and volunteers are a key part of our program's success. We are very confident in our nature-based curriculum because of our long-standing partnerships that provide us with high-quality instructors. These partnerships include the Brainerd Lakes Master Naturalists, Crow Wing County Master Gardeners, Bee-Nay-She Bird Council, University of Minnesota Extension, Brainerd YMCA, Brainerd Garden Club, local business professionals, and more! Feedback from participants has also helped our programs thrive and ensure our nature education is making an impact on Brainerd residents. We will continue to survey our participants and use that feedback to grow and enhance our programs.

See attached a full list of the programs we have provided in the last year as well as the ones planned through Summer of 2022.

7. Identify the principal staff and team members that will be providing services, their role, and their experience, training, qualifications, and availability.

The Northland Arboretum is led by a Board of Directors who meet regularly to discuss the organization at a high level. The Board of Directors is currently 8-people strong with professional experience in forestry, conservation, administration, marketing, fundraising, human resources, legal, and financial management. Each Board member also sits on a specific sub-committee targeted at their professional sphere which helps the organization meet specific strategic objectives. For example, we have sub-committees for our educational programming, special events and fundraising, and ground maintenance. (See attached Board Roster and

Committee Roster) Half of our current Board are residents of Brainerd and understand the needs and importance of reaching this significant community.

At the helm of our organization is our Executive Director, Candice Zimmermann, who began her role with the Arb in March of 2020. Since that time she has helped diversify and strengthen funding streams, grown programming, managed ground improvements, coordinated a strategic planning process and improved internal operations for efficiency of funds. The Director position is a full-time role and Zimmermann continues to serve with an “open door” mentality which makes her accessible to all stakeholders including staff, Board members, volunteers, community partners, and donors. Zimmermann holds a Bachelors in Sociology and a Masters in Nonprofit Management. Her professional background includes 6 years in retail operations, logistics, and management and 5 years in nonprofit development, grant writing, program development and nonprofit budgeting.

The Northland Arboretum employs two other full-time staff and 6 part-time staff. One of the incredible full-time staff is the Administrative Assistant, Kelly Hughes. Hughes has been with the organization for six years and in true nonprofit form, she wears many hats. She fully manages the Arboretum gift shop including inventory, procurement, budgeting, and vendor relations. She is responsible for supporting the Board of Directors when necessary and acting as a liaison for certain sub-committee meetings. She communicates wonderfully with volunteers, stakeholders and donors. She handles the coordination of programs, including reaching out to instructors, coordinating class supply lists, and participant registrations. She is also responsible for most procurement of office and building supplies and identifying and communicating any facility issues or improvements. Hughes also operates as the marketing and graphic design specialists within the organization. She manages the Arb’s social media accounts, designs flyers and marketing collateral for events, communicates with professional printers and advertisers, and ensures our website (which is managed by a Board member) is up to date. Hughes is currently the most tenured staff member on the team apart from a few key volunteers.

Rick Hines, Maintenance Supervisor is the other full-time staff member who is responsible for the Arboretum grounds and ensures the facilities are safe and fully functional for all visitors. Hines has been with the Arb for 2.5 years and has decades of experience doing handyman work, motor and vehicle repair, and equipment maintenance. He is a Brainerd native who understands the needs of the community and can personally testify to the importance of the Arboretum on residents who are struggling financially. His main focus is maintaining a great first impression for all who visit so they may enjoy a safe, peaceful place to be outdoors. The Arboretum is also a destination for visitors outside our immediate area and when we provide a good experience it reflects well not just on the organization but on the entire City of Brainerd. Hines has done great work in his short time with the Arb and will continue to make a positive impact.

The Arboretum's part-time staff include a Bookkeeper, Membership Coordinator, Volunteer Coordinator and Front Desk staff. On average, each position works about 10 hours per week and availability varies. These positions are essential for the overall operations and are the "face" of the Arb. When they walk into the Arb, residents can be certain they will be greeted with a friendly face. Our staff are also trained to know about the grounds, the best trails for your level of experience, Arb memberships, and provide details on the activities and events coming up at the Arb. Without these staff, this experience would be limited and our visitor center would not remain open seven days a week for Brainerd residents.

8. Describe the past performance of key team members and firm to deliver quality work within the time constraints and budget.

The Northland Arboretum team is small but incredibly efficient and responsive to community needs. Arboretum staff have experience managing grants, both from an implementation level and from a financial perspective. Grant reporting has been made more efficient with the onboarding of a new bookkeeper and a dedicated grant committee helps keep grant outcomes, milestones, and deadlines at the forefront of our operations. Within the last few years, the Arb has been awarded several new grants to grow programs and meet greater needs in the community. One such project has been the Nature Knapsack program which has allowed the organization to encourage children to get outside and learn more about observation and research of our natural world. Another program that has grown with the result of local grant funds includes the Giving Garden program in partnership with the Master Gardeners. These success stories show that the Arboretum is fully capable of using our lean staff and resources efficiently to provide quality programming. Although our staff capacity may seem limited, they are mission-focused and determined to thrive as an organization and make significant contributions to the Brainerd community. The Arboretum is prepared to meet all expectations of the Brainerd funding and to highlight our impact on Brainerd residents.

A significant amount of effort is contributed by our volunteers. Volunteers provide high-quality and efficient work for the Arboretum including gardening, administrative work, ground maintenance, special projects, fundraising, and participation in educational activities. Volunteers are, for the most part, self-sufficient but our Volunteer Coordinator acts as a bridge for communication between volunteers and Arb staff and helps recruit and retain volunteers. Of our 40 core volunteers, 52% are Brainerd residents. We also have volunteers that rally during our biggest fundraiser, the Haunted Trail, in which we have nearly 200 volunteers helping to make the event possible. If there is ever a time throughout the year to signify the high performance and efficiency of the Northland Arboretum team, it is during Haunted Trail season.

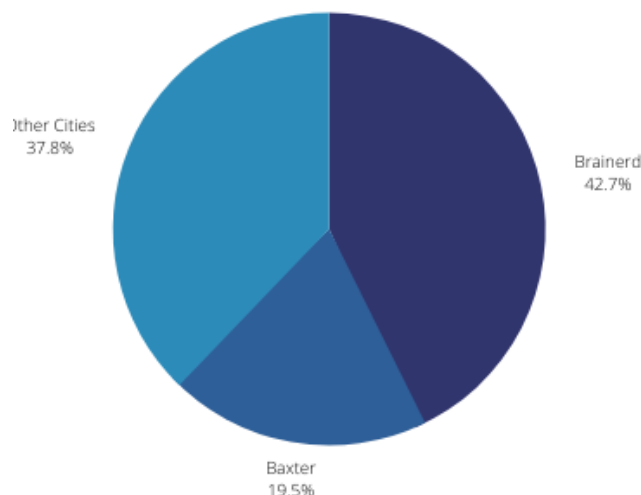
9. Provide a copy of the organizations budget listing revenues and expenses

See attached copy of the Northland Arboretum budget for FY2022.

10. Any other specific experience, knowledge, or abilities that uniquely qualify your firm and team for providing the selected services

The Arb is at a unique point in its history as it approaches its 50th nonprofit anniversary. The pandemic certainly highlighted the importance of greenspaces on surrounding communities and Brainerd residents take pride in the Arboretum's beauty, progress and impact. The stories of how each local is connected to the Arb make our impact even stronger. In just a short timeframe, our organization evolved from a landfill where residents remember throwing away junk to standing on that same point today and breathing in fresh air, observing wildlife, and walking under towering pines. It is a community story to be told and shared with future generations.

The Arb's individual components could be found scattered throughout the Lakes region; however, it is the combination of recreation, education, and conservation elements that make this a unique and irreplaceable gift for Brainerd residents. Our membership is broken into the following graphic to show the comparison of utilization by city. It is important to note, Brainerd residents consist of approximately 43% of the current utilization, followed by Baxter at 19%. The next highest utilization rate is the city of Nisswa at 3%. The remaining piece of the pie is a culmination of other cities, including those outside our county and the state.



This data also reveals that the Arb is a destination for people, bringing in outside revenue and positively impacting our local economy. With Brainerd residents being the most likely to visit the Arb and take part in our programming, we are taking strategic measures to serve the population appropriately and meet them where they are. Based on anecdotal data, most residents utilize the Arb for recreation compared to education or conservation purposes. This

means the most significant impact we are currently making is on the community's physical health and wellbeing. This data motivates us as a nature-based nonprofit to concentrate on maintaining the grounds so Brainerd residents may have the opportunity improve their overall health while being surrounded by the healing powers of nature.

We would like to reiterate that the Northland Arboretum is truly a unique asset to the Brainerd community. We are proud to serve our residents, members, and visitors and improve their overall well-being and connections to nature. We are the homebase for many organizations that do not have a space to meet, practice and socialize, such as the Brainerd Public Schools Cross-Country Ski team, Brainerd Noon Sertoma Club, Brainerd Nordic Ski Club, Brainerd Garden Club, Brainerd Lakes Master Naturalists, Girl Scouts, Sandpipers 4-H club and more. Because of our mission and our proud history, we are engrained in so many Brainerd resident's lives, and we hope to continue to serve the community with the city's support and trust. We thank you for the opportunity to respond to this proposal.

Attachments:

- i. Letters of Support
- ii. Strategic Plan
- iii. FY 2022 Budget
- iv. Board Roster and Committee Roster
- v. Calendar of Events

NORTHLAND ARBORETUM
Profit & Loss Budget Overview
October 2020 through September 2021
Oct '21 - Sept '22

Income

Event Revenue	
Total Event Revenue	79,400.00
Education Revenue	
Total Education Revenue	4,800.00
Government & Agencies Revenue	
Total Government & Agencies Revenue	87,600.00
Donations	
Total Donations	30,100.00
Grants	
Grants - Designated	37,000.00
Rental Income	
Total Rental Income	37,000.00
Membership Dues	
Total Membership Dues	42,120.00
Retail Sales	
Total Retail Sales	11,700.00
Parking & Gate Fees	11,600.00
Plant Sales	275.00
Compost	300.00
Interest Income	0.00
Total Income	341,895.00
Cost of Goods Sold	
Total COGS	11,100.00
Gross Income	330,795.00

Expense

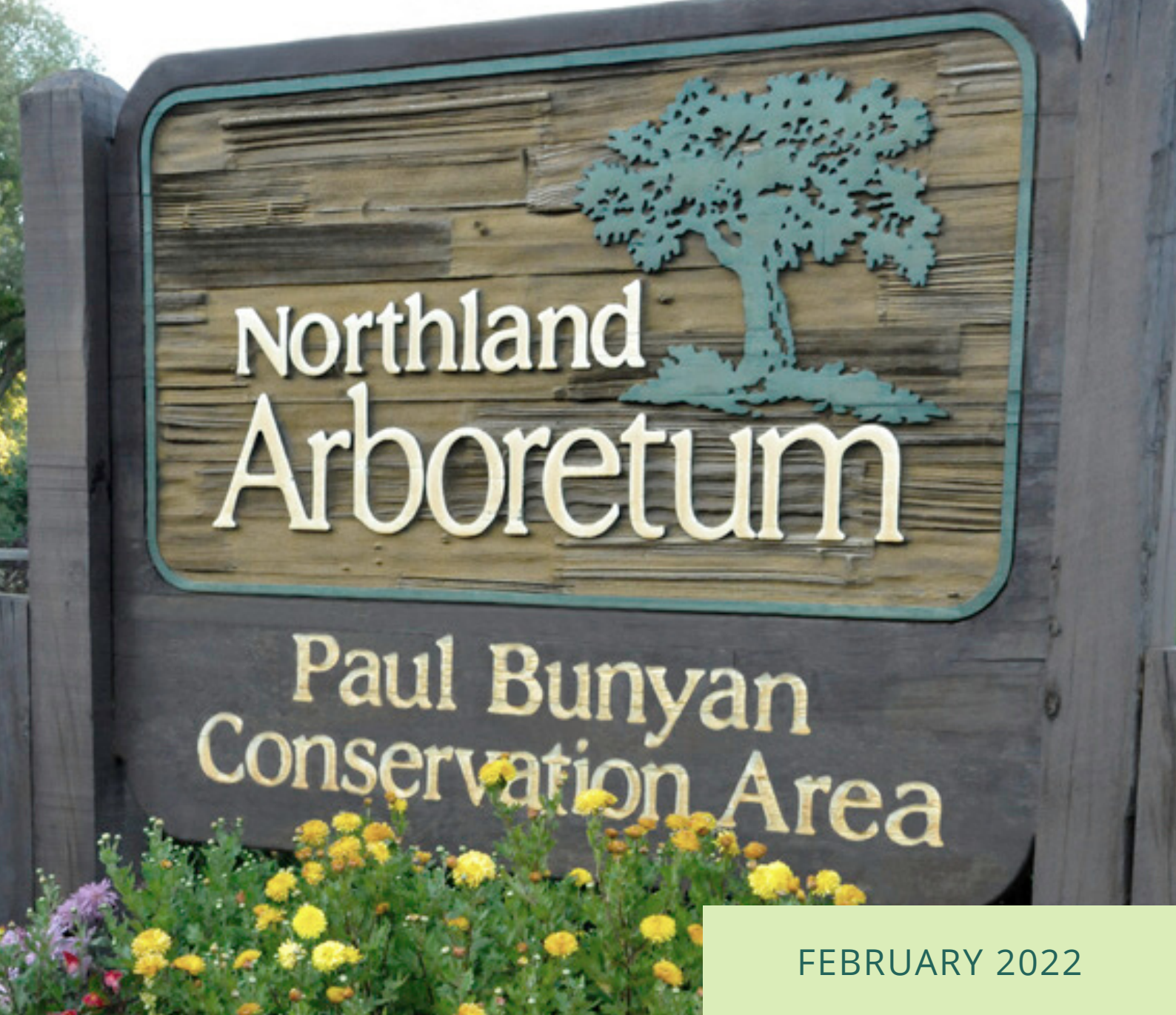
Mileage

Total Mileage	240.00
Administration	
Total Administration	22,965.00
Membership	
Total Membership	6,500.00
Education Expense	

NORTHLAND ARBORETUM
Profit & Loss Budget Overview
October 2020 through September 2021

Oct '21 - Sept '22

Total Education Expense	3,075.00
Event Supplies	
Total Event Supplies	15,500.00
Wages	
Directors Salary	62,060.00
Administration & Office	70,152.31
Maintenance	52,000.00
Total Wages	184,212.31
Payroll Tax Expenses	18,480.00
Repairs & Maintenance	
Total Repairs & Maintenance	39,600.00
Utilities Expense	
Total Utilities Expense	27,172.69
Insurance Expense	
Liability & Contents	10,250.00
Workers Compensation	2,800.00
Total Insurance Expense	13,050.00
Total Expense	330,795.00
	0.00
Net Income	0.00



FEBRUARY 2022

Northland Arboretum

Strategic Plan

PRESENTED TO
Northland
Arboretum Board of
Directors

PRESENTED BY
Candice
Zimmermann



Northland Arboretum
Strategic Plan 2022-2024

Adopted: 01/27/2022

Executive Summary

As the Northland Arboretum approaches 50 years of incredible service to the environment and the community, we are encouraged by the amount of support and the potential for growth. The last decade has been a rocky road for the organization as it navigated inconsistent leadership, financial instability, and a global pandemic. This strategic plan will be the compass and the roadmap our leadership will utilize to navigate any uncharted territory in the years ahead. The Northland Arboretum is sitting at a crossroads and the direction which it has decided to go will not be without its challenges. The strategic goals of this plan include taking this organization to the next level, growing bigger, becoming stronger, and setting a foundation that will allow future generations to enjoy the Arb's natural beauty. To do this, we must evaluate and be critical of ourselves. Programs that were beneficial to the community ten years ago are not relevant today. Leadership has evolved and success has a different definition. Revenue sources that were once plentiful have dried up and new possibilities have emerged. This strategic planning process has allowed us to look at our organization through a lens of possibility, dream big, and ask ourselves "what if". It also has allowed the leadership team to have honest conversations and let go of the things that do not directly align with our mission. With this plan, we have a clear focus of our goals and can move forward with confidence toward a new beginning. By our Golden Anniversary, we hope to achieve the actionable items laid out in this 3-year strategic plan so we can celebrate progress, perseverance, and look forward to the next 50 years.

Vision

"Be a place where the community respects and connects with the natural world."

Mission

"Be a valued community asset providing outdoor recreation and educational activities for all while protecting the natural environment."

Core Values

We are stewards of the natural world.

We are a place for the community to feed the mind, body, and soul.

We are welcoming and accessible to all.

We are a place for lifelong learning.



Operations

Board Roster

Bryan Pike

President

Natural Resource Manager, Crow Wing County (Retired)

Dan Lee

Vice President

Corporate Attorney (Retired)

Judy Morgan

Secretary

Aon Risk Solutions - (Retired)

Jake Spandl, CPA

Treasurer

Senior Associate, CliftonLarsonAllen LLP

Rick Meyer

Ex. Office & Admin Specialist, Brainerd Regional Ex. Office

Jana Froemming

Realty Group

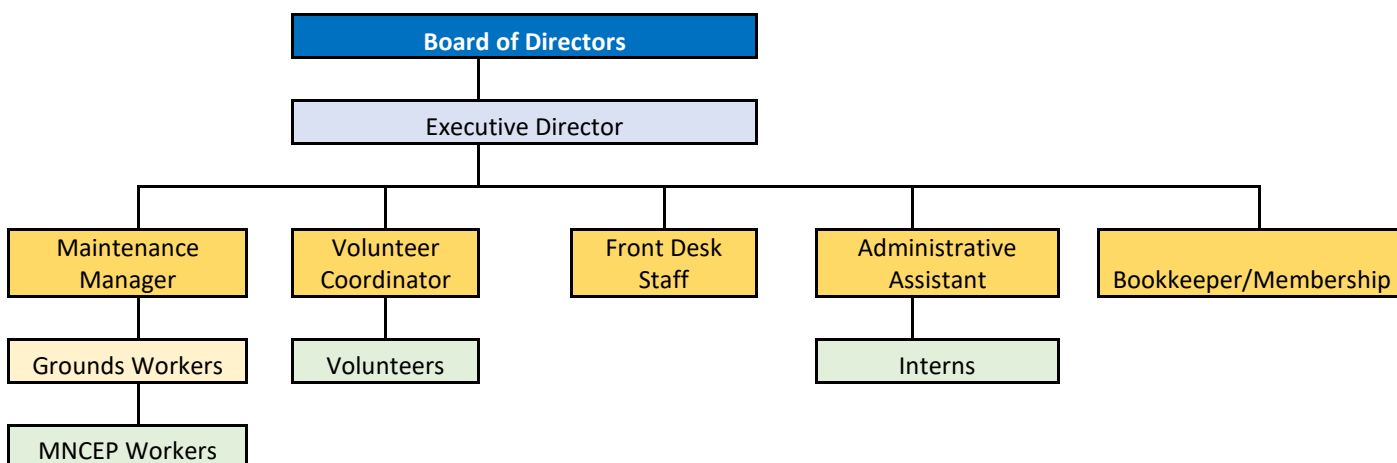
Lori Scharenbroich

West Shore Marketing

Peggy Stebbins

Cuyuna Regional Medical Center

Staff Work Chart





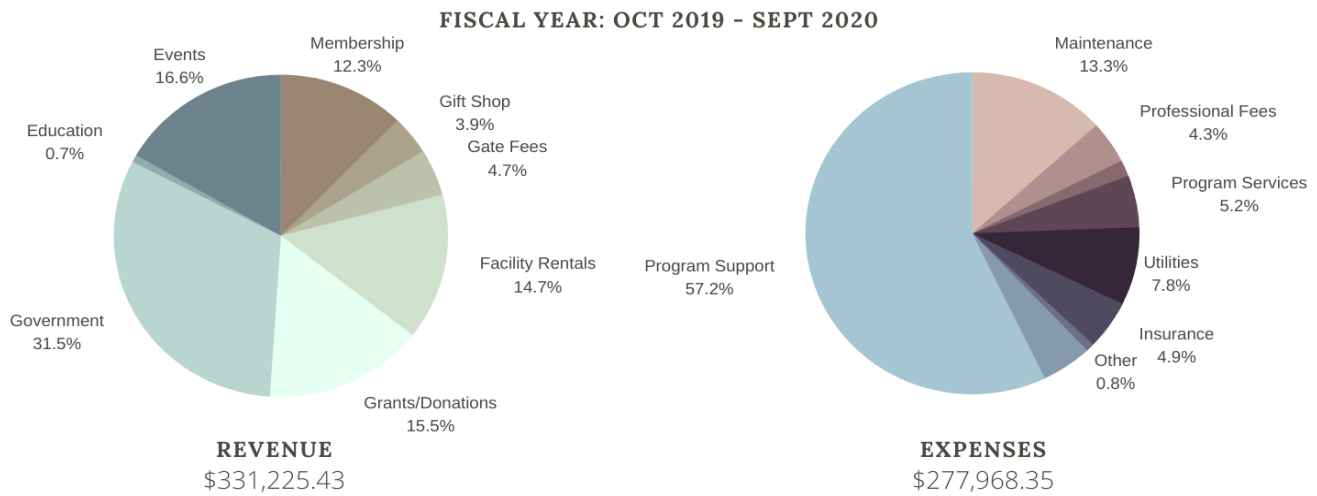
Grounds and Facilities



The Northland Arboretum is made up of nearly 500 acres of undeveloped land. The land is owned by three entities including Crow Wing County, The Nature Conservancy, and the Northland Arboretum. The land is also split between the cities of Brainerd and Baxter. The Northland Arboretum maintains a one-hundred-year lease agreement with Crow Wing County which allows the Arboretum to perform operational improvements as needed if the core focus is to utilize the land for conservation and recreation. The Nature Conservancy maintains an agreement as well to protect critical habitats such as the Jake Pine Savanna. The Northland Arboretum must follow guidelines such as limited motor use on the trails to maintain the integrity of those environments. The Nature Conservancy is responsible for the maintenance of those habitats, but the Northland Arboretum does maintain the trail system. It is through these partnerships that the Northland Arboretum is able to maintain current conservation practices while also providing a beautiful, central location for the community to stay healthy, and for nature-based education to take place.



Financials



Data gathered from the 2019-2020 fiscal year shows that the main areas of expenses for the Northland Arboretum are between Program Support (Salaries and Benefits) and Maintenance. Major revenue is from City of Brainerd, Events, Facility Rentals, and Grants/Donations. The organization would like to grow the areas of Grants/Donations, Gift Shop and Membership.

Volunteers

Volunteers are the kingpin of our organization and help to ensure the gardens continuously look beautiful for our guests. Creating a first impression is a high priority in this strategic plan. Showing the community and visitors that we take pride in our facilities and grounds will lead to increased volunteers, community engagement, and donations. Additional volunteers help instruct our educational programming, maintain the trail system, and assist the administrative team with office-based tasks and reception. Currently, we have 79 volunteers on our roster with the majority of those volunteers helping only with the Haunted Trail fundraiser. In 2020 the total number of volunteer hours contributed to the Northland Arboretum was 1,779.



SWOT Analysis

SWOT analysis is a framework used to evaluate an organization's position and develop strategies that will address the threats and weaknesses by leveraging its strengths. The process helps to assess internal and external factors, how they effect the organization, and what is the current and future potential. The Northland Arboretum identified strengths, weaknesses, opportunities, and threats throughout the strategic planning process. This data helped guide the process toward strategic goals that leveraged existing strengths and potential opportunities. For example, knowing the Northland Arboretum already has an extensive trail system which is groomed in the winter by a partner organization, the Arb leadership identified ways to leverage eco-tourism to boost usage and trail fees during the cold weather months, leading to a successful way to strengthen a funding stream. By using and marketing an asset that separates us from the competition, the Arb can become more financially stable during the winter months when there is less traffic on the trail system.

<u>Strengths</u> • Consistent income from Brainerd • Facilities available for rental • Weddings are cheaper than others • Trails & Gardens • Programming • Partners	<u>Weaknesses</u> • Lack of storage/facilities • Not using facilities to full extent • Lack of staff • Marketing overall • Volunteer engagement • State of repair of venue for weddings and similar groups (i.e. better looking could mean higher fees and use) • Inconsistent leadership • Low fees
<u>Opportunities</u> • Increase gate fees • Snowshoe rentals • Increase rental potential • Fitness trail potential • Technology & social media • Increased partnership opportunities • Increasing membership • Reaching young families • Fundraising and grants • Endowment funds/Legacy funds • Increased in-kind donations – contracts with partners • Use the space as a northern nursery • Reaching younger generations • Change educational programming • Increase winter usage • Greater MN Parks and Trails designation	<u>Threats</u> • Unstable revenue streams • Competition for wedding rentals • Security • COVID effect on rentals • Loss in volunteer base • Turnover of staff/leadership • Cyber security threats • Weather-related incidents/Fire



The Northland Arboretum Strategic Plan

Strategy I: Protect and enhance our natural resources and be good stewards of the environment by maintaining biological diversity. (CONSERVATION)

A. Objective: Encourage native plantings and natural environments

Focus 1: Restore or enhance native plant communities throughout the Arboretum grounds

- Control invasive and undesirable species
- Establish native prairie grasses within open areas of former landfill
- Plant conifers to replace aging jack pine forest.

B. Objective: Restore Whiskey Creek into a healthy habitat.

Focus 1: Conduct a water quality study

- Discuss student research project with CLC instructors

Focus 2: Collaborate with other agencies on ways to improve water quality of the creek.

- Discuss options with partner organizations and local agencies

Strategy II: Provide programming that creates positive connections between people and nature. (EDUCATION and RECREATION)

A. Objective: Create an educational component to our trail system

Focus 1: Create and install interpretive signage that is appropriate for all ages.

- Develop a committee that will be responsible for interpretive signage

Focus 2: Update physical and virtual maps

- Marketing and Grounds Committee work together on updating the maps.

B. Objective: Develop a cohesive and branded program that will serve the purpose of our educational pillar for people of all ages, abilities, and incomes.

Focus 1: Hire an Education Coordinator/Nature Instructor

- Research grant opportunities that would support staff capacity

Focus 2: Expand our education beyond the Arb and into the community

- Partner with school district on Elementary classes and workshops



- Take classes “offsite” and into local public parks
- Offer a balance of fee-for-service and free activities/classes

Focus 3: Education Committee develops Nature Camp

- Come up with consist name, brand and logo alongside Marketing Team
- Work with local partners on collaboration opportunities
- Build in cooking classes – how to best use fresh produce

Focus 4: Maintain an engaging calendar of educational opportunities.

- Plan events and activities 90 days in advance to allow for marketing
- Put the activities calendar on our website
- Seek feedback from participants and members on topics they would like to see

Strategy III: Broaden our visibility in the community (MARKETING)

A. Objective: Raise awareness of the Arb’s offerings and location

Focus 1: Install large sign at Excelsior Drive

- In progress: working with Signs Plus (August 2021)
- Keep sign updated with events and activities

Focus 2: Increase online presence providing convenience for members and visitors

- Designate a staff or volunteer willing to take on social media
- Update website and provide a user-friendly platform for making donations, renewing membership, and understanding the activities the Arb has to offer.

Strategy IV: Increase visitation by providing great guest experiences. (MEMBERSHIP)

A. Objective: Increase visitation by non-members

Focus 1: Create a marketing plan with tourism partners to increase reach in community and beyond.

Focus 2: Create a tracking system that will provide data to Membership committee on number of visitations from non-members.

- Increase visitation by 10% year over year



B. Objective: Increase visitation and engagement of members

Focus 1: Create a Membership Experience team that will help engage members in everything the Arb has to offer.

- Committee should meet regularly and share goals with the Executive Director.

**Strategy V: Invest in improving our current infrastructure and seek opportunities to grow.
(GROUNDS AND FACILITIES)**

A. Objective: Develop a capital campaign that will address key infrastructure improvements.

Focus 1: Meet with consultants to understand timeline and capital plan.

Focus 2: Develop a capital campaign committee to guide the process.

B. Objective: Develop sustainability plans for all assets of the Arboretum.

Focus 1: Develop maps of each garden and region of the grounds

Focus 2: Work with Committee Chairs to communicate any changes needed to the gardens or grounds.

Focus 3: Develop a structured process for new projects including plans, budgets, documentation and presentations needed to committees or full Board.

Strategy VI: (FINANCIAL)

A. Objective: Increase new donors, improve donor retention and increase overall donations received 10% per year.

Focus 1: Understand the need for an endowment or agency fund.

- Contact BLA Community Foundation for information

Focus 2: Create a donor recognition program

B. Objective: Grow general operating fund by \$100,000

Focus 1: Increase membership counts, visitation, and gift shop.

Focus 2: Increase event revenue



Focus 3: Increase donations

Strategy VII: Retain and recruit organizational capacity who will lead the strategic plan and assist in accomplishing its goals. (LEADERSHIP)

- A. Objective: Retain a diverse and knowledgeable Board to assist the Executive Director in meeting goals.

Focus: Recruit talent in specific areas including natural resources, fiscal responsibility, and fundraising.
- B. Objective: Increase staff capacity by adding to employee roster, specifically in the areas of education, outreach, and maintenance.
- C. Objective: Increase the volunteer roster to provide greater capacity to the maintenance and administrative teams.
- D. Objective: Foster and create partnerships that will assist with meeting our goals, not distract from them.



Accountability

Key Performance Indicators

	Goal	Date Goal Met
Strategy I		
Strategy II		
Strategy III		
Strategy IV		
Strategy V		
Strategy VI		
Strategy VII		

Check in dates

May 26th, 2022



Takeaways:

September 22nd, 2022

Takeaways:

Northland Arboretum

Classes and Activities Calendar

2021

Jan 4 - Bird scaping class
Jan 9 – Wild -N- Scenic film festival
Jan 23 – Learn to snowshoe hike class
Jan 30 – Dist. # 181 Ski Race

Feb 13 – Dist. # 181 Ski Race
Feb 13 – Valentine’s Day snowshoe hike
Feb 20 - Beekeeping class
Feb 20 - MN Master Gardener’s snowshoe hike
Feb 20 - Dist. # 181 Ski Race
Feb 24 – Blood drive
Feb 26 – CLC snowshoe hike
Feb 17 – Moonlight snowshoe hike

March 11 – Stargazing Class
March 1 - Day snowshoe hike
March 27 – Moonlight snowshoe hike
March 27 – Maple Syrup Farm tour

April 21 – Tourism Garden tour
April 22 – Volunteer Appreciation Dinner
April 24 – Painting class

May 1 – Arbor Day Celebration
May 7 – Lumberjack Breakfast
May 8 – Spring Market
May 8 – Bird hike
May 12 – Blood drive
May 15 – Bird hike
May 17 – Discovery Wood School field trip
May 22 – BACH Society concert
May 22 – Bird hike
May 27 – Riverside Elementary field trip
May 29 – Bird hike

June 7 – Rhubarb class
June 10 – Plant sale
June 10 – Rhubarb class
June 14 – Rhubarb class
June 14 – Brainerd Fire Department picnic
June 21 – Pick Lady’s Slipper hike
June 29 & 30 – Fun N Friends field trip

July 1 - Fun N Friends field trip
July 4 – 4th of July Parade
July – Blood drive
July 22 – Forest walk

August 3-7– County Fair
August 25 – Home school group class

August 26 – Home school group class
August 26 – Smiles for Jake event

Sept 11 -- Super Saturday – Lakes Printing
Sept 17 – Tree ID class
Sept 25 – Public Land’s Day
Sept – Gregory Park Festival

Oct 2 – Wonder Trek event
Oct 6 - DNR – Forest Health class
Oct 9 – Super Saturday- Atek
Oct – 12 – Stargazing class
Oct 16 – Wonder Trek event
Oct 16 – Gregory Park Pumpkin Festival
Oct 20 – St Francis Field Trip
Oct 21-23 – Haunted Trail event
Oct 30 – Trunk or Treat

Nov 12 – Aldo Leopold Film Festival
Nov 13 – Super Saturday – Mickey’s Pizza
Nov 20 – Vendor Holiday Market
Nov 15- Dec 31 – Sertoma Winter Wonderland

Dec 3 – Free Santa/Grinch event
Dec 10 – Free Santa/Grinch event
Dec 15 – Pints for a Purpose
Dec 18 – Moonlight snowshoe hike
Dec 27-30 – Nature camp
Dec 28 - Dist. # 181 Ski Race
Dec 29 – Blood Drive

2022

Jan 4 - Day snowshoe hike
Jan 15 – Moonlight snowshoe hike
Jan 18 - Day snowshoe hike
Jan 22 – Snowshoe class

Feb 8 - Day snowshoe hike
Feb 9 – Ski Social
Feb 12 - Moonlight snowshoe hike
Feb 14 – Valentine’s Day snowshoe hike
Feb 16 – Ski Social
Feb 19 – Beekeeping class
Feb 22 - Day snowshoe hike
Feb 24 – Blood Drive
Feb 26 – Maple Syrup for Beginners class

March 2 – Ski Social
March 8 – May 5 -Master Naturalists Certification Class
March 8 - Day snowshoe hike
March 9 – Ski Social
March 12 - Moonlight snowshoe hike
March 16 - Ski Social
March 26 – Maple Syrup farm tour

April 9 – Chocolate Bunny Workshop
April 9 – Cool Weather Crops Class
April 23 - - Spring Market
April 22 – Earth Day Clean Up with Parks and Recreation
April 30 – Arbor Day Event

May 14 – Herbs: Garden to Table Class
June 6 – 13 – Rhubarb Class
June 9 – Right Plant Place Plant Sale
June 16 – Summer Nature Camp
June 20 – Pink Lady Slipper Party
June 22 – Summer Nature Camp
June 25 – Continuous Color in the Garden
June 29 – Summer Nature Camp

July 7 – Summer Nature Camp
July 9 – Shiitake Inoculated Mushroom Logs
July 14 – Summer Nature Camp
July 21 – Summer Nature Camp
July 28 – Summer Nature Camp

August 4 – Summer Nature Camp
August 11 – Summer Nature Camp
August 18 – Summer Nature Camp and Wrap Up Party
August 25 – Getting Acquainted with Spiders

NORTHLAND ARBORETUM COMMITTEES		
10/1/2021-2022		
STANDING COMMITTEES	MEMBERS	DUTIES
EXECUTIVE AND FINANCE		
Treasurer - Chair - Finance	Jake Spandl	Committee will help with overarching policy creation and financial decision-making. Committee meets monthly to discuss financials and align the organization with the strategic plan.
President - Chair - Executive	Bryan Pike	
Vice President	Dan Lee	
Secretary	Judy Morgan	
Executive Director	Candice Zimmermann	
GROUPS AND FACILITIES		
	Bryan Pike, Chair Marlys Ray Dan Lee Sharon Bodie Rick Hines	Meet quarterly to discuss and plan for large project goals which align with the strategic plan. Projects outside the strategic plan and annual budget should be drawn up and presented to the Finance Committee for discussion and approval.
EDUCATION - LIFELONG LEARNERS		
	Judy Morgan - Chair, MG Rick Meyer , MN Jill Mertes , MN Jane Stevens , MN Rosanne Blass, MG Ellie Burkette, MN Nick Sandberg, GreenCorps	Meet quarterly with Executive Director and Admin to suggest educational programs/workshops. Develop ideas, Recruit and Book Instructors, subject to approved budget. Work with Marketing Committee to advertise programs. Coordinate Special Purpose Education Committees.
EVENTS		
	Peggy Stebbins, Chair Kelly Hughes Alyssa Shosoreba Karen Kirt	Efficiently develop fundraising and other events. Coordinate with Education, Marketing, etc. for greatest success.
MARKETING		
	Jana Froemming, Chair Lori Scharenbroich Verna Thompson	Work with Executive Director and other Committees to expand our visibility within the community, and to help decide on and market events and programs for greater success
FUNDRAISING/ENDOWMENT		
	Candice Zimmermann	Manage a Capital Campaign per the Strategic Plan, establish an endowment fund and help fundraise
RISK MANAGEMENT		
	Judy Morgan, Insurance Dan Lee, Legal Jennifer Lee, HR	Provide Advice and Counsel to Executive Director as needed.
MEMBER EXPERIENCE		
	Shelly Stanley, Chair Dan Lee	Work with Membership coordinator to enhance membership, broaden membership base
VOLUNTEER RECRUITMENT		
	Loni Heldt, Chair Bryan Pike Judy Morgan Nick Sandberg	Work with Volunteer Coordinator to enhance volunteer experience, broaden volunteer base
GRANT RESEARCH/DEVELOPMENT		
	Candice Zimmermann Jennifer Lee	Research Grant opportunities, and help complete grant applications, at the direction of the Executive Director
TRAILS AND FITNESS		
	Marie Claire Ryan, Chair Heather Baird	Coordinate with EVENTS, EDUCATION and MARKETING committees to establish health and fitness programs/events.



March 3, 2022

Dear City of Brainerd Representatives,

I am writing as President of the Board of Directors for the Northland Arboretum supporting the mission, values and opportunities the Northland Arboretum provides Brainerd residents and others within our greater community as it relates the Request For Proposal (RFP) for an arboretum or outdoor green space. The Arboretum and its Board of Director's have been very appreciative of the reliable funding through the City of Brainerd's Mill levy supported by city residents.

I have been a member of the Arboretum since my career brought me and my wife to Brainerd nearly 35 years ago. I call Brainerd home and the Arboretum is a great place to enjoy the great outdoors. I also value the city parks of Kiwanis, Gregory and Lum during the time we raised our two children. Parks are an asset to cities and the city residents and visitors they serve.

The Northland Arboretum and the over 400 acre property is managed by a volunteer board of directors and offers city residents much more than a city park setting. Wildlife abounds and the natural environment is experienced firsthand by visitors. Beavers, otters, deer, bear, a host of songbirds, rare and threatened plants and animals are all part of the Arboretum landscape providing city residents and visitors this unique natural habitat and opportunity within the City of Brainerd.

The Arboretum has in the past and will continue to provide outdoor education and programming for interested city residents. Cross-country skiing and snowshoeing in the wooded landscape are increasingly becoming more popular. Many cities in greater Minnesota provide groomed ski trails using city equipment and staff on city-controlled property and the Northland Arboretum has been providing this outdoor recreation service to city residents and visitors for over 40 years.

A dedicated funding is so critical for the arboretum to maintain and expand opportunities for residents. It is my sincere hope you continue to provide the needed funds to allow the Northland Arboretum to expand opportunities for city residents and for the arboretum to flourish during these recent trying times.

Sincerely,

Bryan Pike
Northland Arboretum Board President

John Freeman
Activities Director - Brainerd High School
702 S 5th St
Brainerd, MN 56401

To Whom it May Concern:

It is my privilege to write this letter of support for the Northland Arboretum as they work to secure funding that will help them continue to be a great asset to our community. The Arb has been a staple in our community since 1972, and its 500 plus acres have been an incredible resource that our community can take pride in.

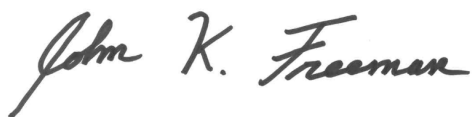
As the Activities Director at Brainerd High School, I have been able to witness first hand all the good the arboretum offers our community. The following Warrior Teams call the Arb home:

- Boys and Girls Cross Country
- Boys and Girls Nordic

The Arb provides our teams with a wonderful setting for practices and competitions. I was at our home Nordic Ski Race on December 28th this year. I can't highlight enough what a great host the Arb was as we welcomed 12 boys' and girls' teams and hundreds of spectators. The Sertoma Lights in the background were an added bonus and further proof of the good the Arb offers our community. In addition to hosting athletics, the Arb has also welcomed our kids for outdoor learning opportunities and field trips. I'm very grateful for the spacious, safe, outdoor setting the Arb offers our kids and community.

The impact the Northland Arboretum has had on our community over the last 50 years is immeasurable. The Arb is very deserving of financial support that will help it continue to be a great asset in the Brainerd Lakes Area. I am grateful for our partnership with Arb; they have been a great resource for our school district.

Yours Sincerely,

A handwritten signature in cursive script that reads "John K. Freeman". The signature is written in dark ink and is positioned above the printed name and title.

John Freeman
Activities Director
Brainerd High School



February 25, 2022

To Whom It May Concern:

I am excited to share this letter of support for The Northland Arboretum in their effort to obtain operational funding from the City of Brainerd. Having the 'Arb', as most people know it by, in our community is an important part of many people's outdoor recreation and personal fitness, as well as a strong contributor to the local economy. Year-round activities vary from being a place to find solitude during a hike along forest trails, Nordic skiing over 17 kilometers of groomed trails, a fitness trail, community garden, bee keeping area, and also a number of activities and events such as the Haunted Trail, Sertoma's Winter Wonderland lights, and more.

As the CEO of the YMCA, it has been exciting to find a community partner so that we can amplify our impact to best serve our local families, as well as visitors throughout the region and the metro area- year round. Candice Zimmermann, the Executive Director has become involved and developed many partnerships with organizations such as Sertoma, Habitat for Humanity, WonderTrek (children's museum), and our YMCA. Candice also plays a key role in a new local initiative called the Nature Network, with a goal of connecting families with information and resources to get outside and explore our natural environment.

As the CEO of a non-profit organization, I can attest to the commitment that the Arb has toward reaching underserved populations in our community through scholarships, memberships, free events (Arbor Day), and nature camps. Locally, our community wellness collaborative, which is led by Essentia Health and Crow Wing County, along with over 300 partners, conducts a Community Health Needs Assessment survey every 3 years. The recent results show a significant and measureable improvement in activity levels and fitness among the survey respondents, which correlates to our population health. By providing an increased awareness combined with more opportunities to get outside during every season, I am convinced that the Arb is part of the cumulative effort which has driven this improvement.

The Arb also supports the development of our local workforce and is often an attraction for potential business leaders and executives as they are recruited for local jobs. In fact, the City of Brainerd's asset of the Northland Arboretum was definitely a part of the decision I made to move to the Brainerd Lakes area over 4 years ago. For these, and many more reasons, I am honored to share support for this designation on behalf of our YMCA and from me personally.



Shane S. Riffle, CEO

BRAINERD FAMILY YMCA
602 Oak St. Brainerd, MN 56401
(P)218.829.4767
(W) BrainerdLakesYMCA.org

Brainerd Community Action Proposal



321 South 7th Street | Brainerd, MN 56401

Mission: *To partner with other organizations to build community, empower people to overcome adversity and promote self-sufficiency.*

Vision: *To provide resources that will strengthen the lives of community members by promoting charitable entities that exist within Crow Wing County.*

March 10, 2022

Jennifer Bergman
City Administrator
501 Laurel Street
Brainerd, MN 56401

Dear Mrs. Bergman and Brainerd City Council members,

Brainerd Community Action (BCA) is excited to present for your consideration a proposal to provide community action programs and events for the city of Brainerd. Created in 1973 specifically for the purpose of helping nonprofits and organizations in the Brainerd Lakes Area with a focus on events throughout the City of Brainerd, BCA is uniquely qualified to continue to take on these proposed tasks for the city. By formulating and distributing strategies and resources over the last forty-nine years, BCA has helped countless groups work their way through the tricky nonprofit and event sector and has become the area's leading charitable incubator.

PRINCIPIL MEMBERS OF OUR STAFF

BCA employs only one full time staff member and is made up of its volunteer board of directors and this sole Executive Director. This group comes with extensive knowledge of the local event sector and years of experience with fiscal sponsorship and nonprofit/charitable mentoring and support programs. Our board is made up of the following members at the time of this proposal.

Board President – Bill Satre

Vice President - Emily Burrows

Chairman of the Board - Henry Praska

Treasurer - Chris Smith

Secretary – Katie Deblock

Council Liaison - Kevin Stunek

Director - Sheena Zeigler

DAVE BADEAUX, EXECUTIVE DIRECTOR

Coming to us with 20 years of experience in marketing and event coordination, Dave has helped turn our organization's focus to how we can better utilize our resources in supporting charitable entities within The City of Brainerd. By identifying our network of resources and highlighting areas we are the most effective in, BCA has allowed ourselves to finetune the services we provide while also making way for additional pathways to success within the community. Dave's background in sales and visibility in the community allows us to tap into resources and support that were previously unavailable. This has allowed us to take on additional program services in recent years, and has been done all while identifying areas within our budget that could be reduced in an effort to translate expenditures into available funds for these expanded offerings.

CURRENT PROGRAMS AND EVENTS

Over the last nearly 50 years BCA has evolved and changed as needed within the community. What was formed initially to help grow a support system for non-profits has itself grown to be one of the largest event organizers in Central Minnesota. That transformation has not however reduced our capacity to continue the services we were tasked with. The programs we provide and the mentorship we supply has allowed us to build our current list of groups under our fiscal agency to twenty three individual groups each with their own charitable goals and services to the community. From neighborhood associations looking to better their slice of the city, to groups focused on supporting the less fortunate amongst us. BCA, through its fiduciary partnership program, is able to reach countless members of our community and improve both quality of life as well as make improvements to the city itself.

Our list of events includes smaller neighborhood gatherings, but has its tentpole as our largest offerings focused around the Fourth of July festivities. Almost from our inception Brainerd Community Action has been asked to take on the daunting task of creating what has become known as The Fourth of July Capital in Minnesota. Traditionally involving events including the annual parade and firework show, Brainerd's Fourth of July Celebration has grown to be known throughout the state and vast region surrounding us as the premier destination for all things red white and blue. Coinciding with these events is our largest fundraiser event Arts in the Park which draws nearly 15,000 people on its own to The City's beautiful Gregory Park.

PROPOSED SCOPE OF SERVICE

Brainerd Community Action would like to continue the relationship we have built with The City of Brainerd to continue to provide world class events and community action programming to its residents. Our focus will be on maintaining that high level of quality that we have become known for while also striving to deliver new ways to connect our citizens and provide support services.

EVENTS

Talking up the largest portion of our proposed services, BCA would like to commit to continuing to build on the foundation of events we have traditionally presented. Our focus on these events will include the needed professional services in place to ensure their smooth execution.

This will include a major set of advertising and marketing campaigns aimed at ensuring each event is properly attended and that the citizens of Brainerd are informed of their existence. These campaigns will utilize our relationships with local marketing agencies and institutions. They will include print, radio, and online marketing.

The events provided and or supported by BCA will include but not be limited to:

- **In person Fourth of July Events**

The events surrounding the Fourth of July may change, but the focus coming out of BCA will be to ensure that these events are done in person and at a scale that is a draw for local families.

- **Arts in the Park / Artist Exhibition**

As our largest fundraiser Arts in the Park has become a major event for BCA. We view this not as simply an opportunity to help fund further programs in the area, but also as a service to local artists and business owners by giving them a platform to sell and expand their business

- **Neighborhood Events and Gatherings**

One of our major focuses in the coming year is on the expansion of Neighborhood Associations. Our goal in the following years is to expand the events these groups are offering and help increase the number of neighborhoods in which these events take place

- **Downtown Events**

Our involvement in Downtown Brainerd has been a staple of our organization for many years. From the St. Patrick's Day Celebration, to the farmer's market and beyond. BCA will include itself when available to help with and support events located at the heart of the city.

COMMUNITY PARTNERSHIP AND COLABERATION PROGRAMS

BCA has supported and mentored countless groups from its inception. Though those groups change from year to year, our focus on identifying ways we can help and supplying a network of support and resources is unwavering. As a part of our agreement with The City of Brainerd BCA will supply services to and programs for entities with charitable aspirations through professional services and fiscal sponsorship.

The Majority of the cost associated with this service will be associated with those professional services as provided by our staff and organization.

COUNCIL OF NEIGHBORHOOD ASSOCIATIONS

Research has shown that community members who feel engaged with their neighborhood are more likely to stay in the surrounding area, and that newcomers to an area are more likely to plant roots in their community if they feel connected to those around them. Neighborhood associations are an easy way to form bonds between existing residents and those who are new to the area while also improving the daily lives of citizens in that region of the city.

Brainerd Community Action has identified in its yearly activity the opportunity to better connect the citizens of neighborhoods with others surrounding them as well as the city as a whole. BCA has been involved in the creation and support of multiple neighborhood focused groups in the area over its existence and is looking to create a system that is better equipped to handle change over in members that make up these groups.

One of the largest hurdles that neighborhood associations have is the loss of momentum as members eventually move on to other areas. Our goal will be to build up a coalition that makes recruitment of new members easier, makes the success of these groups less burdensome, and helps ease any issues with transitional periods.

BCA is proposing the creation of a network of neighborhood associations and the forming of a supporting board made up of representatives from each individual group. This support system would help ease the creation of said groups as well as help stabilize them as membership changes.

- Brainerd Community Action would act as the fiduciary sponsor for these groups, managing the financial funds and allowing them to take in tax exemptible donations. We would create a formula for success by generating easy to follow steps and best practices as well as work to help connect these groups with the resources they need. This starts with the foundation that BCA has set as an organization but would extend past the normal scope of services we are able to provide.
- The council of Neighborhood Associations would be formed of two members from each individual association with BCA holding a seat as well. This group would meet four times a year to discuss what efforts they have planned for the upcoming seasons, converse about what is and is not working for each group, and coordinate on event themes and timing. Possible events could include neighborhood night outs, clean ups, holiday light shows or contests, or even formulating neighborhood resources for those in need.

NON_PROFIT AND CHARITABLE PROGRAM SUPPORT

BCA has created a charitable funding grant opportunity. This grant was formed to help identify programs and events both within and outside of our own umbrella in an effort to better collaborate and fund programs in the area. Funds for this grant will be based on our fundraising efforts each year and will vary accordingly.

A recap of estimated expenses and services can be located on the next page as well as a copy of our 2022 budget as presented in December to the city council. Brainerd Community Action would like to thank you for your consideration of this proposal and for your continued efforts to seek out opportunities to improve The City of Brainerd. We appreciate the opportunity to continue our involvement with The City of Brainerd and its residents. If you have any questions, please contact us at 218-829-5278.

Sincerely,



Dave Badeaux

Executive Director

Brainerd Community Action

RECAP AND ESTIMATED ASSOCIATED EXPENSES

The following is a recap of the deliverable services proposed by Brainerd Community Action for the City of Brainerd. Expenses listed include staff time and but may not include professional services unless otherwise noted.

EVENTS

- In Person Fourth of July Events
- Artist Exhibition
- Neighborhood Gatherings
- Downtown Event Support

	Estimated Item Expense
	\$55,000
<i>Includes Marketing</i>	<i>\$10,000</i>
<i>Insurance</i>	<i>\$6,000</i>

COMMUNITY PARTNERSHIP AND COLABORATION PROGRAMS

- Charitable Network and Resources
- Fiscal Sponsorship
- Professional Services

Estimated Item Expense
\$37,000

COUNCIL OF NEIGHBORHOOD ASSOCIATIONS

- Formation of Neighborhood Association Council
- Facilitating Quarterly Meetings
- Event Support and seed funding

Estimated Item Expense
\$10,000

NON-PROFIT AND CHARITABLE PROGRAM SUPPORT

- Community Empowerment Fund
- Grant Opportunity
- Mentoring

Estimated Item Expense
Dependent on Fundraising

Total Estimated Expenses for Included Services
\$102,000

<i>Total Budgeted Expenses (From Provided 2022 Budget)</i>
<i>\$130,662.55</i>

Requested amount from the City of Brainerd
1.5% of the City of Brainerd's previous year's levy

2022 Budget

Total 41000 · Government Contracts	\$ 91,997.00
Total OPERATIONS COSTS	
Staff	\$ 56,000.00
Payroll Taxes	\$ 5,000.00
Bookkeeping	
Bookkeeping - Accounting Fees	\$ 4,200.00
Bookkeeping - Payroll Processing	\$ 900.00
Bookkeeping - QuickBooks Subscription	\$ 1,469.60
Tax Preparation	\$ 825.00
Bremer Bank Rent	\$ 2,400.00
Community Partner Networking (mileage, meals)	\$ 250.00
Insurance	\$ 4,000.00
Phone/Internet	\$ 1,250.00
Technology Upgrades	\$ 1,200.00
Website Domain / MS Office	\$ 200.00
Adobe Subscriptions / Images and Editing	
Printing Costs - Internal	\$ 750.00
Letterhead and Envelopes	\$ 350.00
Supplies - Office	\$ 500.00
Membership Dues	\$ 189.00
Advertising Marketing	
Misc	
Volunteer Contributions	\$ 28.95
Operations Total:	\$ 79,512.55
REMAINING:	\$ 12,484.45

44000 · Fourth of July Fundraising Efforts	
44010 · Service Clubs	\$ 15,000.00
44020 · Corporate Donations	\$ 5,000.00
44030 · City Donations	\$ 16,000.00
Fundraisers	
44040 · Individual Donations	
44050 · Parade Entry Fees	\$ 1,000.00
44060 · Organization/Business Donations	
44070 · Vendor's fees	\$ 3,000.00
44150 Arts In The Park Fundraiser	\$ 10,000.00
44000 · TOTAL 4th of JULY FUNDRAISING EFFORTS	\$ 50,000.00

64000 · 4th of July Expenses	
64010 · Parade	\$ 1,500.00
64011 · Community/Volunteer Expenses	\$ 1,750.00
64012 · Advertising	\$ 7,500.00
64013 · Entertainment	\$ 500.00
64014 · Fireworks	\$ 20,000.00
Insurance	\$ 2,000.00

64015 · Trash/bug spraying	\$ 2,000.00
Bug Spray	\$ 1,000.00
64016 · Stationary	\$ 200.00
64017 · Mailings	\$ 500.00
64018 · Sound	
64020 · electric expense	\$ 2,600.00
64021 · Parking Lots	
64022 · Supplies	\$ 3,000.00
64023 · Misc.	\$ 300.00
64026 · Restrooms	\$ 2,800.00
64027 · Website updates donations/registration	
64028 · Arts in the Park awards	\$ 1,500.00
Total 64000 · 4th of July Expenses	\$ 47,150.00
REMAINING 4th of July Balance	\$ 2,850.00
TOTAL REMAINING Balance	\$ 15,334.45

The Center Proposal

Proposal for Senior Services to the City of Brainerd

By the Lakes Area Senior Activity Center Inc, DBA The Center

The Center's **Mission**: Encouraging mature adults to engage in healthy living, socialization, life-long learning and community connections.

The Center's **Vision**: E4 Encourage Engage Enrich Educate.

Goals that were identified at The Center's annual retreat on September 16, 2021, were as follows:

- 1) Form a long-range planning committee addressing facility needs. Committee would assess facility needs, repairs; provide prioritized projects and quotes for planning purposes.
- 2) Research marketing to younger seniors. Survey younger seniors for input on activities, programs, and events that they would be interested in. Move forward with implementation of those programs, events and activities.

Programs, activities and events that The Center provides for the residents of Brainerd can be grouped into these areas; games, health & wellness, arts, educational and enjoyment.

Games: The Center offers cribbage, party and duplicate bridge, progressive 500, whist, scrabble, pool, ping pong, dominos, mahjong, hand & foot, pinochle and bingo.

Health & Wellness: Individuals can work out in the Cardio Room on treadmills, recumbent bikes, Hoist machine, and the elliptical. The Balance Room offers stretching pieces of equipment, weight bench, exercise balls and boccu ball. Bone Builders Class is offered Monday, Wednesday and Fridays at 11 am. The exercises conducted in this class assist in stopping the progression of osteoporosis, so a very important class for aging individuals. The Center's Walking Group walks the northside and in the winter walks to the Franklin Art Center to finish their walk in the hallways. Zumba Gold Class is a fun way to exercise while dancing to Latin music. Line Dancing Class is a music-based exercise option and they also perform at Center functions. Lifestyle Change Class through Crow Wing Energized provides health education information and accountability measures for students participating in the class. 52 Weeks of Wellness is a new program started this year. Snowshoes are available to check out. Tennis and pickleball are played on the courts at Gregory Park. Golf League in the summer is held at the Legacy Course, Craguns. Lunch & Learn topics have included mental health awareness with suggestions for assistance in our community.

Arts: The Center has many opportunities; folk painting, oil, acrylic, water color, wood carving, theater group, choir and card recycling. Classes are offered with the option of borrowing brushes, carving tools and paints until you decide you are interested in pursuing that area of the arts. Tuesday is open art day. Artists gather and share what they are working on; discussions on techniques, skills and experiences add to each artist's works. The Center's choir performed at senior apartments, nursing homes, at the courthouse, and at The Center, pre-COVID, and will again. The Platinum Players are The Center's theater group. They share their passion for performing with our members a few times a year. We partner a dinner & a play and also have performed at other locations due to requests. They also delivered our curbside dinners during COVID; provided costumes, encouragement and a smile to each car in line!

Educational: Our mission includes lifelong learning. Educational programing includes medical experts providing information through presentations, lunch & learns, and Morning Club speakers. Advice from Ann: Ann is a retired social worker who continues to attend workshops to stay updated on the changes. She allows aging individuals to meet with her and glean from her expertise on navigating retiring, housing options, and more. Legal advice/education is provided by an attorney who comes in one day a month to provide advice to seniors. Book Club is collaboration with the Brainerd Public Library; a month is given to read the book followed by light hearted discussion. Everyone takes a turn selecting the type of

the books selected. We have had computer classes, and recently received a grant to purchase five I-Pads for members to use and held classes for their use.

Enjoyment: Just having fun after retirement is a goal everyone has, and that is the age group we serve. In addition to games and the arts, we have Music & Dancing every Thursday afternoon. Anyone who plays an instrument or sings is welcome to join this group. Enjoyment takes place while individuals participate in activities, programs and events. The socialization, friendships, and support as life's transitions happen is what continues to make life worth living. The Center's lobby is a great place just to hang out or meet someone for a cup of coffee. Puzzles and our library are available for enjoyment also.

Our facility, 803 Kingwood Street, Brainerd, has a rich history embedded in Brainerd. It began as the Northwestern Hospital, a large brick house with a wraparound porch that faced 8th Street. Around 1920's four floors were added and an elevator. In the 1950's Good Samaritan bought the building, tore the house section down and made a one level building that the north end was added on to in the 1960's. In the mid 1990's the building no longer passed inspections for a nursing home. It was gifted to The Center in 1999 renovations were completed and an open house was held in August of 2001. We have renovated the fourth floor to accommodate work out rooms, a wood shop, wood carving & toy making room. Third floor, folk painting, prayer quilting, Alzheimer's disease and dementia care giver support group and educational programing. Lower level, the LSS Friendship Café, where individuals who are participating in programs in the building can go to have a great lunch and not have to go outside. The main level has many rooms of different sizes with different tables to allow for a variety of activities throughout the day Monday through Friday. Breakdown is as follows: **Card Room** (set up with card tables) we play cribbage, mahjong (4 times a week), bridge, Rummikub, whist, and Scrabble. **Board Room:** Ask Ann retired social worker who shares her expertise, Board Meetings, Membership/Mentor meetings, Knitting Group, and movie matinees. **Game Room:** pool, copier, dart board, computer for volunteer to log activity numbers and volunteer hours, and ping pong. **Craft Room:** card recyclers two days a week, Morning Club, open painting, acrylic & oils, and Platinum Players meetings. **Great Room:** Bone Builders exercise class held three times a week, Zumba Gold, line dancing, weekly bingo and bingo events, music & dancing, bridge, progressive 500, monthly dinners and special dinner events and donut production every Thursday. **Gift Shop:** hand-crafted items made by our members that are sold Monday through Friday and at three Craft Shows annually. We currently have 88 vendors in our Gift Shop. **3rd Floor Conference Room:** folk painting, Lifestyle Change class, Prayer Quilters two days a week, and this room is also used by those who rent offices from us. **4th Floor Rooms:** Wood carvers & toy makers, wood shop, cardio workout room and balance workout rooms are open Monday through Friday. **2nd Floor:** model railroad group, Plant room – seed sowing & nursery. **Offsite programs:** **Gregory Park:** pickleball and tennis and performances in the park. **Cragun's Legacy Courses:** golf league. **Parks or backyards:** snowshoeing (we have 19 sets to check out for free) program sponsored byUCare.

Marketing and reaching out to Brainerd residents: We have marketing options that include: social media (our website and Facebook page), and our monthly newsletter, The Center News, which is handed out at community events that we participate in including, but not limited to: Crow Wing County Fair, Everything Expo, and Ageless Expo (our own event for an aging population), and Northside Neighborhood picnic. Prior to COVID the newsletter was also placed in clinics, hospitals, and other businesses. We also have signage at the Brainerd ball park and along the front of our building. We organize the Outstanding Senior Citizen award program annually, including attendance at the State Fair competition for Outstanding Senior. We are a City of Brainerd polling site, and, once COVID is a nonissue, we will host the Northside Meetings. Our biggest outreach is our own membership sharing what The Center has to offer.

How funding from City of Brainerd will be used: funding will be used to help cover these expenses:

Numbers are from our end of the year financials for 2021

Building Expenses:

Insurance	\$ 9,748
Equipment & Maintenance	9,081
Equipment & Repairs	4,164
Elevator Maintenance	4,233
Fire Protection	2,643
Trash Removal	929
Pest Control	540

Utility Expenses:

Electric & Water	21,650
Gas	11,393
Phone & Internet	2,784

Miscellaneous Expenses:

CPA & Tax Prep	4,895
Office Supplies	3,484
Cleaning Supplies	3,333
TV	1,460
Parking Lot Fee	400
Postage	372
Printing	210

Payroll Expense: 151,780

Total **\$233,099**

The Center's experience in providing programs for seniors is exemplary. The Center has been in existence in the City of Brainerd since 1979 and has provided senior programming ever since. Over forty years has given The Center a history of providing programs, events and activities that serve an aging population well. Surveys, suggestions, and pilot programs are ways The Center has developed to make sure the programs are relevant and evolving. At times, outside experts are brought in. Examples are: Crow Wing Energized programs on health & fitness, bands or dancing performers that are funded through grants from Legacy Funds for Minnesota, health & wellness experts from medical facilities covering topics of relevance, presenters from our Great Decisions Group have covered topics on climate change, foreign policies, the Middle East and more. The Center will continue to evaluate, educate and enrich the lives of the age group we serve. In 2019, prior to COVID, we logged over 27,000 individual users, had over 1,600 members and volunteered over 17,000 hours! Log in sheets are located in every room, leaders of groups or individuals log hours. Volunteers log hours at a volunteer desk.

The principal staff of The Center is as follows: It is led by a passionate Board of Directors, a committed staff consisting of an executive director, office staff, facility staff, and part-time lead for the donut crew. The Center is a 501(c)3 nonprofit with a well-rounded Board that shares their expertise not only on Board Meeting day, but throughout the weeks between. Knowledge from the Board includes, but is not limited to, administration, nonprofit expertise, medical, foundation development, education, mental health, engineering & facility knowledge, financial, legal, natural resources, and a desire to serve seniors in our community. Staff of The Center has a very diverse background; marketing, chef & food service, facility

management and the licensing required in their specific areas. The Office and Facility positions are all full time, 40 hours a week. Executive Director is a salary position, so the hours worked are what is needed to move The Center forward in its mission. Lead for Donut Crew is a part time position covering set up and operations on donut-making day. Office staff coordinates the membership data base, Gift Shop vendors and monthly sales, supervises volunteers who are staffing the front desk and Gift Shop along with other day-to-day operations that occur. She has also been sent to training to be a Lifestyle Change program coach. Facility staff maintain our heating & cooling systems, provide clean environment for our members throughout the facility, snow removal on sidewalks, lawn maintenance, and facility upkeep with day-to-day operations. Boiler Class C license is required, and class offerings were provided through The Center. Facility suppliers provide training opportunities on their products. Director pilots programs, manages staff, reports to the Board, works with all staff and volunteers moving The Center forward with programing, events and activities serving seniors in Brainerd. Nonprofit training has been taken by the Director and Board of Directors through the Initiative Foundation, Minnesota Council of Nonprofits and Blandin Community Foundation. Currently, The Center offers over fifty-four programs, events, and activities weekly.

Past performance of key team members is evaluated by staff and volunteers. Facility staff makes sure our building is safe, clean and ready for use by our various groups. Office staff coordinates room usage, daily schedules, front desk and Gift Shop volunteer information, and provides what is needed to make our programs, events and activities successful. Volunteers coordinate activities also; game groups, bridge, progressive 500, cribbage, pool, folk painting, acrylic & oil painting, wood carving, bingo. Bone Builders Exercise Class is led by a volunteer that was sent to training and she has continued to lead this safe chair exercise class three days a week for the past eleven years. A retired social worker continues to attend workshops, comes in one morning a week to share her expertise with individuals who are navigating life's transitions. Minnesota Legal Aid provides an attorney one day a month. The Center schedules appointments and individuals can have their legal issues addressed and advice given. A Board Member coordinates our volunteers for the front desk and Gift Shop along with plant sale, rummage sale, and silent auction. Our volunteers logged 19,989 hours in 2021!! Amazing volunteers committed to serving the seniors of Brainerd and beyond. Director has secured funding, coordinated performances in the park, Gregory Park, Brainerd, for the past eleven years, providing weekly free concerts for members and residents of the northside of Brainerd, from the first Thursday in June through the last Thursday in August. 2021 was a record setting year for attendance overall and a performance attendance record was set at over 300!! The Center is very good at providing programs, events and activities within the time that is allowed Monday through Friday and at times, on the weekends or evenings. Thought is put to the events and the staff or volunteers needed to make them successful. Expenses for programing and costs to cover them are planned out in advance. Costs are analyzed and project budgets developed before programs are announced. If costs are not covered, programs are cancelled and tried again later.

Budget for 2022 on the following page.

The Center

Proposed Budget for 2022

Revenue	
Activities Income	159,575.00
Offset Income	21,700.00
Newsletter Advertising Revenue	15,000.00
Tower and LSS Fees	40,600.00
Gambling Donations	7,000.00
City Levies and Donations	113,000.00
Donations and Memberships	30,000.00
 Total Revenue	 386,875.00
Disbursements	
Payroll Costs	151,377.50
Operating Expenses	10,500.00
Office Expenses	36,504.00
Maintenance	19,100.00
Utilities	44,000.00
Newsletter Costs	24,500.00
Activities Costs	54,150.00
Costs Offset by Revenue	20,700.00
Depreciation	55,000.00
 Total Disbursements	 415,831.50
 Net Operating Revenue (Loss)	 (28,956.50)
Other Revenue	
Toy makers	2,000.00
Bandstand project	7,000.00
Brick Building Rent	12,000.00
 Total other revenue	 21,000.00
Other Expenses	
Toy makers Expense	1,000.00
Bandstand project	7,000.00
Brick Bldg Expense	5,000.00
 Total other expense	 13,000.00
 Net Other	 8,000.00
 Net Income, (Loss)	 (20,956.50)
 Non-cash depreciation	 55,000.00
 Net cash increase	 34,043.50

Other specific experience, knowledge or abilities that uniquely qualify us for providing the selected services. Our over 40 years of providing these services, our knowledge of the City and its people (recent census shows the population of Brainerd age 65 and older is over 16%), industries, parks, businesses, facilities, etc. does make us uniquely qualified to continue providing these services. For example, the collaborations that The Center coordinates and/or participates in. Brainerd High School Learning Disabled Students come every Tuesday during the school year and make our donut boxes. It is great to have them in the building not only because they make the boxes, but they bring in a fresh outlook to what we do. One commented that in 80 years, seniors will be playing games and programs on their phones! Also have a student from Alternative Education that comes to The Center to assist with janitorial duties and we provide for him a job learning situation. Great program for both of us. Lutheran Social Services; the Friendship Café is located in our lower level, and we collaborate on events where our members dine there and participate in events for The Center also. Crow Wing County Outstanding Senior Volunteer program is coordinated by The Center. We contact organizations that utilize volunteers and provide the packet of requirements from the Minnesota State Fair. Nominations are taken, selection committee made, winners announced at The Center's Picnic, mid-July. Award winners are honored at the Crow Wing County Fair and they represent Crow Wing County at the MN State Fair. Twice our nominees have been selected as Minnesota Outstanding Senior Volunteers! They are also recognized at the Distinguished Service Awards Banquet. Let's Go Fishing is a program that we have chosen to co-sponsor and we coordinate two pontoon fishing trips a month in the summer. A great program that our members really enjoy. Our annual Plant Sale is collaboration in many ways. We utilize the old BHS greenhouse located at the Community Ag Center. Little Farm Market collaborates with us by providing seeds that our Plant Sale volunteers plant to grow their seedlings. We grow beautiful floral and vegetable plants that we sell at great prices for the community to buy. Gardening education is also provided. Master Gardeners attend our Sale to assist with questions. Plants not sold are given to nursing homes, senior apartments, MN Adult & Teen Challenge and group homes for their gardens. We also collaborate with Brainerd restaurants for special catered dinners, and our annual Rib Fest. Tele-Care is a program where our front desk volunteers call shut in's just to have a friendly conversation checking in on them; no medical information is given. Call time is coordinated with the shut in and if they do not answer after several calls we have contact numbers for a neighbor or family member who will check on them. In addition, we interact with the community through our Toymakers and Prayer Quilters groups. In the past year 1,040 quilts were given to individuals who are seriously or terminally ill, and over 1,017 toys have been delivered to police, firefighters, hospital pediatric unit, Alex & Brandon Safety Center, the Women's Shelter to be given to children who have been traumatized.

Early in our beginning, we established a commitment to the City of Brainerd. In 1983, we moved from a location along Front Street to the Old Fire Hall and were experiencing growing pains. The Center took out a loan for \$186,000, for renovations to the building to make it usable. A "Burn the Loan Papers" event was held on Sept. 30, 1988, in the Elks Lodge as the Old Fire Hall was too small. Again, in 2009, The Center began to look at ways we could give back to the City of Brainerd. In Brainerd's history, there were five bandstands located throughout the city. There is only one left, Gregory Park. It was not usable so The Center began a fundraising project to renovate the bandstand. Renovations of \$75,000 were completed in 2010!! The Center has continued to provide free community performances in the park, Gregory Park, weekly every summer since. Approximate yearly costs of \$7,000 for the past eleven years, a total of \$77,000. We have begun fundraising and scheduling for this summer's performances also.

The Center has been proud to serve the City of Brainerd's seniors since 1979 and we look forward to continuing our mission into the future.

Addendum

Testimonials from members of The Center:

The Center is a wonderful place and has a lot to offer. I do the Bone Builders exercise program with Helga three times a week for thirty minutes. Also enjoy doing weekly bingo on Wednesday, starting at 12:30 pm; includes free bagged popcorn to enjoy! I also purchase greeting cards and other items from the Gift Shop that are handmade from our members. Also purchase weekly donuts made by our volunteers on Thursdays. The Center also has a paperback library; books that are donated by our members that we can take home and return. If you like puzzles, they also have those. Most of all I like the companionship here.

Joyce, 417 19th Street SE, Brainerd

I come to The Center on Mondays and Fridays for Bone Builders. I play Scrabble on Thursday. I am going to try to start using the exercise rooms again. I come to some of the monthly Monday night suppers. I have made some friends here and love to visit with them.

Jody, 1113 9th Ave NE, Brainerd

The Center is a great place. Many friends meet here each week. The Center provides activities of all kinds for seniors. It is open to all seniors, not only from Brainerd, Baxter and the areas around. Have you tried the donuts? Come see how many people show up on an early Thursday morning. Area business and residents look forward to having a cup of coffee and a donut on Thursdays. I come in and write out checks for The Center. I'm a retired bookkeeper who looks forward to my volunteering job. Please, please support The Center as you have in the past.

Norma, Baxter

When I moved up here eight years ago, the first place I went to was The Center. I played bingo at a table by myself as I know no one and had not played bingo in years. After a while, players said come sit with us at our table. That was how I started to get to know people up here. Now I go to Bone Builders three times a week, and play bingo on Wednesdays every week. I also partake in The Center's library and the Gift Shop. Also, music and dancing on Thursday.

Carolyn, 714 Kingwood Street, Brainerd

When I moved to this area in 2018, The Center was a perfect safe place to get to know people. It is one of the reasons we decided to retire in this area. I enjoy the exercise programs, belong to the book club. Also the holiday dinners. My children are grown and live in Florida and California. The social activities are very important to me.

Cherie, 12905 Brentwood Cir, Baxter

The Center is my "home away from home"! After I lost my husband, I needed activities and friends to productively fill my time. I got involved in activities, made new friends. As our population ages, places such as The Center become more important. We must do all we can to keep funding this facility! I play mahjong two to three times a week. I play bridge every Monday. I take part in the monthly dinners. I shop in the Gift Shop. Several bridge groups meet in The Center, and I often play in these groups. I LOVE The Center! Please keep it funded to the max. Thank you!

Joan, 1926 Graydon Ave, Brainerd

The Center – "How do I love thee? Let me count the ways!" I love thee because the annual membership fee is only \$20 a year which I can afford. I love thee because as a mature adult, I need a reason to get up

in the morning and to exercise to keep me healthy. The Center has a great variety of interesting groups and many exercise classes and rooms. I love thee because I can socialize with people my age by playing cards, doing wood work, making quilts, and many other groups. I love thee because there is a handy Gift Shop where I can purchase a great diversion of items. I love thee because I can purchase the best donuts in town at a reasonable price. I love thee because The Center has an executive director, Board and staff that are health conscious. They keep up on the latest health guidelines and have procedures in place to keep me healthy, well informed and safe. Oh my!! Seems like there are just too many "I love thee because" to count. So- I guess that is why I am a member of The Center!!

Darla, 906 Mill Ave, Brainerd

The Center is a warm, comfortable place to go and visit with friends. I work the front desk. I go to Bone Builders three times a week. I play Scrabble on Thursday afternoons.

Pat, 308 N 7th Street, Brainerd

To me, The Center is a family tradition. My Mother was a card recycler and I believe, my Dad was on the Board. After I retired, I was on the donut crew for about two years, then became involved with the card recycling. The last few years, my main focus is the Prayer Quilts. We meet on Mondays and Thursdays. We make quilts for people with severe injuries or major illnesses. We average 15-20 quilts a week. We currently donate to three of the local hospitals as well as cardiac rehab and kidney dialysis unit. Also take requests from any one with friends, family that is in need of a prayer quilt. Being involved with this gives me a sense of purpose and also fills a need for my fellow volunteers.

Harley, 1121 S. 8th Street, Brainerd

The Center is close to where I live, Franklin Art Center, so it is convenient to get to. They offer so many wonderful events and groups to be involved in. Everyone is friendly and you meet so many people and make new friends. I am involved in and attend Bone Builders class, Wednesday Morning Club meeting, exercise rooms and have helped with donuts.

Lynn, 1001 Kingwood St. #8, Brainerd

The Center is wonderful! I did belong to three bridge clubs, no more, the people aren't there anymore. Now I play bridge at the Senior Center. I am meeting new people and enjoy seeing old friends too. Some of us meet there for coffee and maybe a doughnut. We listen to music from a group of seniors that enjoy getting together and playing. I also go to the "55 Alive" group sponsored by AARP. I am in my 90's. I'm glad to have a warm, friendly place for me and for many others! Please continue to keep sending funding!!!

Dorothy, 2204 Spruce Dr., Brainerd

I enjoy many aspects of "The Center". I like the book and puzzle exchange. I like to shop at the Gift Shop for cards. I love the Lunch & Learn and found this to be very informational and fun. Love it! I attend Bone Builders on a regular basis. I like that this is a place for people to gather and get together for cards and games and friendship. A great place for all people to feel like they belong.

Linda, 203 S. W. 6th St., Brainerd

I have just retired in the past two years. I have been a member of The Center for years, but now I started volunteering at the Gift Shop. I don't know what I would do without getting out to The Center. It means being with people of my age and not seeing the four walls of my home. On Wednesdays, I come to knitting and crocheting. I just love it. We talk and swap stories and pictures of grandkids. Staff always makes you welcome and comes in and talks to us. The Center means so much to the seniors of Brainerd.

All you have to do is come and see all the people doing so many things. Our town should be proud to have The Center a part of our community!!

Lana, 12903 Co. Rd. 8, Brainerd

When I moved back to Brainerd, June of 2017, one of the first places I visited was The Center. Having left Brainerd in 1954, most of my family was gone and I needed to begin building a church and social life. My daughter-in-law had sent me information on The Center and it seemed to be one of my first go to's. That first visit, I purchased my membership! I have met so many people here, made new friends. People I would never have otherwise met! The Bone Builder's program is great- exercising three times a week is not difficult with friends. The shared library is exceptional! Being an avid reader, it is a great blessing. Brainerd/Baxter is greatly lacking in resources for quality gifts. The Gift Shop is definitely Brainerd's BEST. They provide social activities not otherwise available here. I live in the country and neighbors are not near so The Center is all the more precious to me.

Arliss, 13863 Thompson Rd, Brainerd

One of the reasons that The Center is essential to my quality of life is the Bone Builders class. I have severe osteoporosis which does not allow me some of the usual ways of staying in good physical condition such as walking, biking, skiing, etc. My doctor told me that I needed to find a Bone Builders class. Bone Builders is a low-impact activity that uses hand-held weights and exercises to protect against fractures caused by osteoporosis by increasing muscular strength and bone density. It also helps improve balance, avoid falls, and enhances energy and well-being. Helga Fleischhacker, a volunteer, has been teaching The Center's Bone Builders class for over 13 years. The class meets three times a week. Attendance is down a bit now but before COVID we had 15 to 25 people attending. The class does more than the physical – it also provides the opportunity to build friendships, confidence, and hope for a healthier future.

Arlene, Merrifield

The Center

Board of Directors 2022

Board meetings are held the third Thursday of each month in the Board Room of The Center.

Officers of the Board:

President

Kathy Tusa

Retired BN Administrative Assistant
14075 Firewood Dr, Baxter, MN 56425
218-828-1655

Vice President

Paul Welch

Breath of Life :Executive Director
200 Buffalo Hills Ln, Brainerd, MN 56401
218-822-3296

Secretary (A shared position)

Neola Raasch

Retired: RN & Homemaker
12783 Lakewood Ln, Baxter, MN 56401
218-829-1023

Secretary (A shared position)

Diane Searcy

Retired CLC Foundation
500 Blue Jay Ct, Brainerd, MN 56401
218-838-0355

Treasurer

Carole Paulson

Retired: Carole Paulson Associates
1456 Pike Bay Rd, East Gull Lake, MN 56401
218-828-1994

Dale Parks

Retired CWC

13013 Berrywood Dr., Baxter, MN 56425
218-270-4242

Gayle Trzpuc

Retired Educator
12944 Berrywood Dr., Baxter, MN 56425
218-330-7785

Ray Charpentier

Charpentier & Lange
Attorney of Law
718 Front Street, Brainerd, MN 56401
218-829-7365

George Sommerfeld

Retired Electrical Engineer
19969 Sea Gull Rd, Brainerd, MN 56401
218-825-0576

Kurt Nelson

Financial advisor at Stifel Nicolaus Company
14275 Golf Course Dr., Baxter, MN 56425
218-825-8523

Nick Reindl

Retired Minnesota Dept. Natural Resources
8101 Buffalo Creek Rd., Brainerd, MN 56401
218-828-0365

Janice Hardesty

Retired Corp. Office Mills Fleet Farm
224 SW 4th Street, Brainerd, MN 56401
218-828-1434

Josiah Heal

Retired: Northwest Airline pilot
10904 Shew Ln, Merrifield, MN 56465
218-963-7995

Steve Barrows

CWC Commissioner District 3
12679 Noble Fir Dr., Baxter MN 56425
218-820-8199

City Council Liaisons:

Brainerd: **Kevin Stunek**

Baxter: **Connie Lyscio**

The Center

803 Kingwood Street
Brainerd, MN 56401
218-829-9345
thebrainerdcenter.com & on Facebook

Be A Pal Proposal

1. Be a Pal is a Non-Profit dedicated to providing adults in Senior Facilities with a pen pal.

Mission: To provide social-emotional support by connecting individuals with pen pals.

Vision: We are a nonprofit dedicated to uplifting others through meaningful relationships, letters, and gifts.

Goals: We would like to reach every Senior Citizen in Crow Wing County, giving them the opportunity to become a Pal and be an active part of our program.

Our goal is to uplift our Pals Social-Emotional well-being and provide a positive relationship between Pals. We also put an emphasis on the importance of a hand-written letter.

Benefits/ who and how it helps:

By connecting Adults in Senior Living Facilities with community members, all are given the opportunity to grow in many areas:

- Developing and maintaining meaningful relationships
- Making someone's day brighter
- Strengthening the art of a hand-written letters
- Sharing stories and wisdom with others
- Having something to look forward to
- Improving mental health
- Strengthening Communication Skills

1. We have a few active programs with in Be a Pal currently.

- Serving at 7 facilities: Carefree living-Brainerd, Heartwood-Crosby, Northern Lakes Senior Living- Baxter, Breathe of Life- Brainerd, Hills Crossing- Nisswa, The Senior Center- Brainerd, Edgewood- Baxter

- a. Pen Pal Program

- i. Each Senior (Senior Pal) in the pen pal program gets matched with a community member (Pal) with similar interests and hobbies. The Pal is given their Senior Pals name and hobbies and writes the first letter. Jess goes to each facility once a week at a set time/day to hand deliver these letters and pick up the responding letters. She had delivers to some Pals, but most are sent through the mail. Be a Pal provides all supplies to write the letters as well as postage.

- b. No-Reply Program

- i. This program is for the Seniors that would like to receive letters and gifts but are unable to respond. They receive at least one letter/ picture a month. We have community Pals, typically younger children and students that will color pictures, make crafts, and write letters.

- c. Volunteer Program

- i. We have set up volunteers to go into facilities and assist the Senior Pals in writing their letters. This also gives them a chance to have one-on-one time and

in-person relationships. Currently, most of our volunteers are from Girl Scouts and 4-H Programs.

2. There are many programs and activities we will be adding to the program throughout the year, covid and funds pending.
 - a. Activity Night
 - i. This will be once a week, rotating between all of our active facilities. The Youth Center has already agreed to assist in hosting an Activity Night. We will bring activities and snacks to the Senior Facility, along with volunteers to help the participants with the activities. Not only will this give all involved a fun activity to look forward to, but it will give us all a chance to have in-person connections.
 - b. Birthday/ Holiday Gifts
 - i. We already give each Pal a card on their birthday, as well as for most Holidays. We would like to have the ability to give each Senior Pal a gift, according to their hobbies/interests, along with their card.
 - c. Day Maker Program
 - i. This program will be an open nomination program. Any community member will have the chance to nominate a Senior that they would like to see receive a special gift to help make their day.
 - d. Adding Facilities, Hospice Seniors, and shut ins.
 - i. We want to add every facility and hospice service in the county and reach every Senior we can. We want everyone to have the opportunity to become a pal and participate in whichever programs they chose.
 - e. Volunteer Appreciation
 - i. We would love to be able to through our volunteers an appreciation dinner. They are such an important part of our community and deserve the recognition.
 - f. Pal Meet and Greets
 - i. Along with the activity night, we would like to be able to collaborate with the facilities to allow Pals to come in and spend some extra time with their Senior Pals as they are able.
3. There are many ways we have and plan to continue marketing and reaching out to the community.
 - a. Social Media
 - b. Collaborating with other community organizations
 - c. Speaking at different churches, service clubs and at all opportunities available
 - d. We are a proud member of the BLCoc
 - e. We already have a sponsored booth at the Crosslake Cares Senior Expo.
 - f. We have had 2 articles written about us in the Brainerd Dispatch and The Pine and Lakes Echo and will have an article in the Lake Country Journal Magazine as well. We will continue to reach out to different media outlets as we are able.
4. Currently, we have minimal funding that we have received. Things we would utilize the funding for:

- a. Staff Wages- The only staff we have is the Executive Director, who is volunteer currently.
- b. Programs and Activities
- c. Office Space
- d. Supplies
- e. Mileage
- f. Postage
- g. Community Outreach

6. We have been established since December 2020. Following is our timeline and growth so far.

December 2020: Carefree Living- 20 Pals

March 2021: Heartwood- 32 Pals

April 2021: Northern Lakes- 64 Pals

July 2021: Breathe of Life- 70 Pals

September 2021: Hills Crossing- 95 Pals

March 2022: Senior Center- 130 Pals

March 2022: Edgewood Baxter- 175 Pals (with 25 waiting to receive a Pal)

We are also a part of or have attended many other community gatherings and clubs.

- 1. Toastmasters- every Friday morning
 - 2. Kinship Partners Collaboration
 - 3. Smiles with Jake Advocate
 - 4. Crow Wing County Volunteer Association Member
 - 5. Member of Chamber of Commerce
 - 6. Collaboration with Brainerd Youth Center
 - 7. Had booth at The Great Pumpkin Festival
 - 8. Worked with CRES students on Art projects for Pals
7. Executive Director/Founder: Jessica Vogt- 10 years' experience working as Home Manager in group home and health care, 2 years as Program Director of Cuyuna Range Youth Center and currently works at the Brainerd Lakes Chamber of Commerce. I have 3 years of schooling in Human Services through Rasmussen. Be a Pal work is currently done in my time away from my job at the Chamber, however, once we have the funding to pay wages, I plan to cut back my hours there to have to opportunity to focus more on the growth of Be a Pal.

Board of Directors:

Chair: Nicole Converse- Brainerd Lakes Chamber of Commerce Welcome Center Manager

Secretary: Tristan Warwas- Stay at Home Mother

Financial Chair: Mercedes Fagereng- Administration at Carefree Living

Steve Barrows- Crow Wing County Commissioner

8. Jessica has begun and implemented many different successful programs throughout her career. While at the Youth Center, she started a Fishing Program, where she created the program, created, and followed a strict budget, and followed through with a successful outcome. She also oversaw all fundraisers, and successfully did many including fundraiser breakfasts and dinners, bake sale, soup walk, t-shirt sales, family festival, and many others. She has training in volunteer recruiting, training, and scheduling. She has been an active member of Toastmasters for almost a year and is trained in public speaking.
9. Currently, Brainerd Community Action is our Fiscal Sponsor. We have received minimal funding so far; most costs are covered by Jessica and Nicole. We have completed a few grants and are guaranteed to receive \$750 from the Community Foundation. Jessica would like to bring her book for you to look over during the interview. Our budget is in progress, as we have received little funding thus far.

BUDGET EXPENSES

Program Expenses

Paper and writing supplies:

- 2021: \$25
- Expected 2022: \$75

Envelopes:

- 2021: \$40
- Expected 2022: \$150

Cards:

- 2021: \$100
- Expected 2022: \$500

Gifts:

- 2021: 0
- Expected 2022: \$3000

Mileage:

- 2021: \$502
- Expected 2022: \$4000

Postage:

- 2021: \$17 (August-Dec)
- Expected 2022: \$700

Printing:

- 2021: \$50
- Expected 2022: \$800

Volunteer Training/ Appreciation:

- 2021: 0
- Expected 2022: \$1000

Misc:

- 2021: \$80
- Expected 2022: \$200

Administrative

Wages:

- 2021: 0
- Expected 2022: 24000-50000

Marketing:

- 2021: \$30
- Expected 2022: \$1200

Fees:

- 2021: \$300
- Expected 2022: \$1300

Website/Social Media

- 2021: \$111
- Expected 2022: \$800

Training and Education

- 2021: \$75
- Expected 2022: \$1500

BUDGET REVENUE

Grants: 60%

Donations: 25%

Fundraising: 15%

10. We are Senior Specific. Our entire program is based on the well-being of Senior Citizens in our community. We have already established strong relationships with participating facilities, and we continue to receive new Pals and interested seniors every day. We would love the opportunity to be able to grow substantially with the help of The City of Brainerd!



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Discussion of Implementing the Street Lighting Policy

☐ 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: Paul Sandy/Connie Hillman	Department: Public Works/Finance
Presenter (Name & Title): Finance Director Hillman	Estimated Time Needed: 5 Minutes
Summary of Issue: At the February 22, 2022 council meeting the Council directed the implementation the newly adopted street lighting policy to the P&F committee. Historically, BPU purchases the lights and amortize the cost of the lights over 25 years, and adds the amortized cost to the City's monthly bill for service. So the new lights are an operating cost increase to the City. The attached analysis does include replacing the lights in the special lighting districts.	
Alternatives, Options, Effects on Others/Comments: Staff chose two construction projects - North Brainerd to be constructed in 2022, which represents an average sized annual project, and Washington Street to be constructed in 2025, which represents a major construction project. The orange box assumes that by implementing the lights on a by projects basis, this would increase the City's budget by \$1,800 a year. If the City replaced the lights on a per project basis, it would take roughly 30 years to replace them all (1,008 lights - 126 Washington Street = 882 / 29 lights per construction project (23 + 6) = 30.41 construction seasons/years). The green box shows that in 2026 the budget would increase by \$2,600 as this is a planned large commercial area project. To change all of the lights in one year, the estimated impact is about \$65,000 to the operating budget as depicted in the gray box. The tan box gives various scenarios using different number of years to phase in the new lights. As additional information, 1% change in the levy equates to \$62,558 new dollars. Staff from the City and BPU met to discuss the implementation of the policy. The process for changing out the street lights is more in-depth than just removing a pole and replacing it with a new one. It also includes or should include replacing the conduit as well. If light pole replacement is done outside of a construction project, directional drilling may need to be done, or we would be tearing apart a street that was just completed. Also, replacing more lights than just a normal construction season, would require BPU to have a crew solely dedicated to replacing lights all season which is not realistic as Staff needs to be doing other projects as well. Taking this all into consideration, Staff's recommendation would be to implement the street lighting policy when reconstructing a street.	
Recommended Action/Motion: A motion to implement the street lighting policy when reconstructing street.	
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>It will be incorporated each year into the budget.</i> <i>Please Explain:</i>	

Street Light Capital Project Estimated Costs Examples

Options 1A and 2A North Brainerd (2022 Construction)	Current Annual Charge	Current Average Annual Cost Per Light	New Fixtures and Poles Annual Charge	Estimated Annual Cost Per New Light	Cost per Light Difference
23 Pinto Lights	\$ 2,179.48	\$ 94.76	\$ 3,852.96	\$ 167.52	\$ 72.76
6 Cobra Lights	\$ 882.06	\$ 147.01	\$ 1,005.12	\$ 167.52	\$ 20.51
North Brainerd Change (annually)			\$ 1,796.54		\$ 61.95
North Brainerd Change (monthly)			\$ 149.71		\$ 5.16

Options 1A and 2A Washington Street (2025 Construction)	Current Annual Charge	Current Average Annual Cost Per Light	New Fixtures and Poles Annual Charge	Estimated Annual Cost Per New Light	Cost per Light Difference
126 Cobra Lights	\$ 18,523.26	\$ 147.01	\$ 21,107.52	\$ 167.52	\$ 20.51
Washington Street Change (annually)			\$ 2,584.26		\$ 20.51
Washington Street Change (monthly)			\$ 215.36		\$ 1.71

Options 1A and 2A City-Wide Change	Current Annual Charge	Current Average Annual Cost Per Light	New Fixtures and Poles Annual Charge	Estimated Annual Cost Per New Light	Cost per Light Difference
1,008 Lights (current annual charge)	\$ 104,219.84	\$ 103.39	\$ 168,860.16	\$ 167.52	\$ 64.13
City-Wide Change (annually)			\$ 64,640.32		\$ 64.13
City-Wide Change (monthly)			\$ 5,386.69		\$ 3.59

Phased in Implementation- Estimated Annual Operating Cost Increase	New Fixtures and Poles Annual Charge	Estimated Lights Per Year
Implement over 3 Years	\$ 21,547	336.00
5 Years	\$ 12,928	201.60
7 Years	\$ 9,234	144.00
8 Years	\$ 8,080	126.00
9 Years	\$ 7,182	112.00
10 Years	\$ 6,464	100.80
15 Years	\$ 4,309	67.20
20 Years	\$ 3,232	50.40
25 Years	\$ 2,586	40.32
30 Years	\$ 2,155	33.60
35 Years	\$ 1,847	28.80
40 Years	\$ 1,616	25.20
45 Years	\$ 1,436	22.40
50 Years	\$ 1,293	20.16



Brainerd City Council Agenda Request

Requested Meeting Date: Ongoing

Title of Item: Update on Request for Funds to be Returned from LAMC

☐ 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: Connie Hillman	Department: Finance
Presenter (Name & Title): Finance Director Hillman	Estimated Time Needed: 1 Minute
Summary of Issue: At the August 16, 2021 the Council made a motion to formally request refund of unspent funds contributed to Lakes Media Collaborative be returned to the City. The attached letter was sent to Lakes Area Media Collaborative in September. Staff has not received a response to the letter or received the unspent funds.	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion: No action needed, this is an update.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☐ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

Joseph J. Langel
Direct Phone: (612) 225-6837
jjl@ratwiklaw.com



September 20, 2021

Dave Henschke
LAKES Media Collaborative
21535 Rose Lake Lane
Ironton, MN 56455

RE: City of Brainerd
Our File No. 4034-0170

Dear Mr. Henschke:

I am writing on behalf of the Brainerd City Council. As you know, you and the City have had some communications over the past several months about the status of LAKES Media and the funds that were provided to LAKES by the City. At its August 16th meeting, during the Council's discussion of the future of the City's PEG channel, the Council passed a motion to seek unspent funds contributed to LAKES Media. Those funds were provided to support public access television and are to be used for that purpose. The City would like to apply those funds towards the cost of public access television moving forward. This letter is a formal request for those funds.

Please contact me with any questions. I look forward to hearing from you.

Regards,



Joseph J. Langel

cc: Jennifer Bergman, City Administrator (via e-mail)

RRM: 421157

Over 30 Years of Service



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Resolution - Establishing the Parking Commission as a Standing Committee

☐ 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: Community Development Director	Department: Community Development
Presenter (Name & Title): David Chanski, CDD	Estimated Time Needed: 2 minutes
Summary of Issue: On February 22, the City Council accepted the Parking Commission's recommendations, which included reconstituting the Commission from an Ad Hoc committee to a standing committee. The attached resolution does such.	
Alternatives, Options, Effects on Others/Comments: Part of the Parking Commission's recommendation to reconstitute the Commission as a standing committee included appointing the current commission members as the initial members of the new commission. These members are Kevin Yeager, Wayne Erickson, Rylie Weber, Brenda Billman-Arndt, and Chuck Marohn. As the resolution calls for commission members to serve 4-year terms and to keep the terms of the commission members from all expiring at the same time, staff recommends assigning members to the following terms: - 1 to expire 12/31/2023 - 1 to expire 12/31/2024 - 1 to expire 12/31/2025 - 2 to expire 12/31/2026 Upon expiration of these initial terms, all terms would be 4-year terms.	
Recommended Action/Motion: 1) Motion to adopt the attached resolution, establishing the Parking Commission as a standing committee. 2) Appoint Kevin Yeager, Wayne Erickson, Rylie Weber, Brenda Billman-Arddt, and Chuck Marohn to the Parking Commission to serve terms determined by the Council President.	
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>	

RESOLUTION NO. _____

**RESOLUTION REESTABLISHING THE AD HOC PARKING COMMISSION
AS A STANDING COMMITTEE**

WHEREAS, the City had an established Parking Commission; and,

WHEREAS, the Parking Commission was decommissioned in 2005 for lack of participation; and,

WHEREAS, members of the community requested a new Parking Commission to advise the City Council on parking issues, particularly in and around the downtown; and,

WHEREAS, the City Council voted to re-establish the Parking Commission as an Ad Hoc committee on July 6, 2020; and,

WHEREAS, the Parking Commission developed recommendations for improved parking management practices in the downtown area; and,

WHEREAS, the City Council accepted the Parking Commission's recommendations on February 22, 2022; and,

WHEREAS, the City Council recognizes that the Parking Commission's recommendations should be evaluated regularly and that currently unidentified parking issues may arise in the future,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brainerd, Minnesota, that the Parking Commission be reestablished as a standing committee.

1. **Purpose:** The Parking Commission is hereby established as a standing committee for the purpose of advising the City Council on parking issues.
2. **Committee Membership:** The Commission shall have 5 members all of whom shall be appointed by the Council President with the approval of the City Council. The Community Development Director shall be the staff liaison.
3. **Length of Term:** Members of the Commission shall serve rotating 4-year terms.
4. **Compensation:** This is a volunteer committee without compensation.
5. **Organization:** The Committee shall elect its own Chair and Vice Chair. Written minutes shall be taken for each meeting and published upon approval by the Commission at the following meeting.
6. **Meeting Dates and Time:** The Parking Commission shall meet no less than twice per year and additionally as needed. The Commission shall establish meeting dates and times once formed.
7. **Duties:**
 - a. Identify issues related to parking.
 - b. Make recommendations to the City Council and other appropriate committees and commissions as appropriate as how to address identified issues.

Adopted this ____ day of March 2022

KELLY BEVANS
President of the Council

Approved this ____ day of March 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator



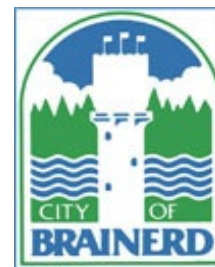
Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Res - Reestablishing Precincts and Polling Locations

☐ 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: Jennifer Bergman	Department: Administration
Presenter (Name & Title): City Administrator Bergman/Finance Director Hillman	Estimated Time Needed: 5 Minutes
Summary of Issue: Please see attached memo.	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion: Staff is looking for Council to set the polling locations for Ward 4, and consider adopting a resolution reestablishing the precincts and polling places.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☐ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

MEMO



TO: Mayor and Council

FROM: City Administrator Jennifer Bergman
Finance Director Connie Hillman

DATE: March 16, 2022

RE: Res-Reestablishing Precincts and Polling Locations

BACKGROUND

Pursuant to Minnesota Statute 204B.135, cities must redistrict within 60 days after the legislature has been redistricted or by March 29th whichever comes first. Therefore, the deadline for redistricting for municipalities from the 2020 census is March 29th.

The order of redistricting works is the state goes first making their boundaries, then cities and then counties. Precincts cannot cross congressional lines, and if the population in said precinct does not change $\pm 10\%$, no changes need to be made and a resolution can be passed reestablishing the precincts, rather than an ordinance. This is the case for the City of Brainerd for the 2020 census, we do not need to change the lines of wards or precincts.

CITY PRECINCTS

The City has 4 wards and 9 precincts. Each ward has 2 precincts, with the exception of ward 3 which has 3 precincts. There is a small precinct in Ward 3 (W3P3). The hope was that it could be absorbed into W3P2, however, W3P3 is in a different legislative district (6A) from the rest of the City (6B) and needs to remain as a separate precinct. Since this precinct is very small (less than 10 people), we will continue to combine the polling location with W3P2.

POLLING LOCATIONS

If you recall for the 2020 elections, we combined polling locations. We had 4 polling locations, one for each ward, and the locations were set up that if you were in W1P1 the voter went to one side of the room and if you were W1P2, you went to the other side of the room. This worked well as we needed fewer election judges to facilitate the elections. However, it did double the work on at the end of the night as reconciliations needed to be done for each precinct - the same happens in W3P2 and W3P3.

The Council was willing to combine for the pandemic; however, Staff was told that the polling locations were only combined due to the pandemic and in the future the Council

would like to have a polling location for each precinct, except for W3P3 as it is not cost effective. Therefore, the attached draft resolution is going back to a polling location in each precinct except as noted above in Ward 3. The disadvantage is being able to find enough election judges and to have party balance in the precincts, and the amount of equipment needed to be deployed for the election. The City is unable to have W3P3 be a mail ballot only precinct as the City is over the population limit for mail ballot precincts.

Ward 4: Staff is having trouble securing a second location in Ward 4. The polling location for W4P1, had been Harrison Elementary, and several years ago due to security concerns, we could no longer use that location. The polling place was then moved to Carefree Living for the 2018 election. Although the people at the facility were very accommodating, the facility was not conducive as a polling location. The location does not have to be within the precinct but should be within the ward and there are stipulations on how far out it can be outside of the ward. The issue is there is not a lot of available options in and near by the ward.

Solution: Staff has found 3 solutions:

Option 1 – Ward 4 is a combined polling location. All residents in Ward 4 vote at St. Andrew's Catholic Church. The polling location is set up like it was for the 2020 elections, with W4P1 going to one side, W4P2 going to the other side.

Cons of this option are not having the 2 voting locations for ward 4 (neighborhood polling location) and twice the reconciliation at the end of the night for judges.

Pros of this option are we know it worked well for the 2020 election and we don't need as many election judges.

Option 2 – Go outside the ward. Staff has secured Halvorson-Taylor Life Center Home as a possible location, approximately 4 blocks outside the ward. First Lutheran Church may be other option in future years but was not able to be secured for the 2022 election.

Con of this option is will people have concerns/feel comfortable with voting at this location.

Pro of this option is we will have two voting locations for ward 4.

Option 3 – Go outside the ward, but use Trinity Lutheran as W4P1 rather than W1P1, and change W1P1 to Central Lakes College.

Cons of this option are it could cause a lot of confusion for W1P1 voters going to a new location after so many years; voters of W4P1 having to go

Res-Reestablishing Precincts and Polling Locations

March 16, 2022

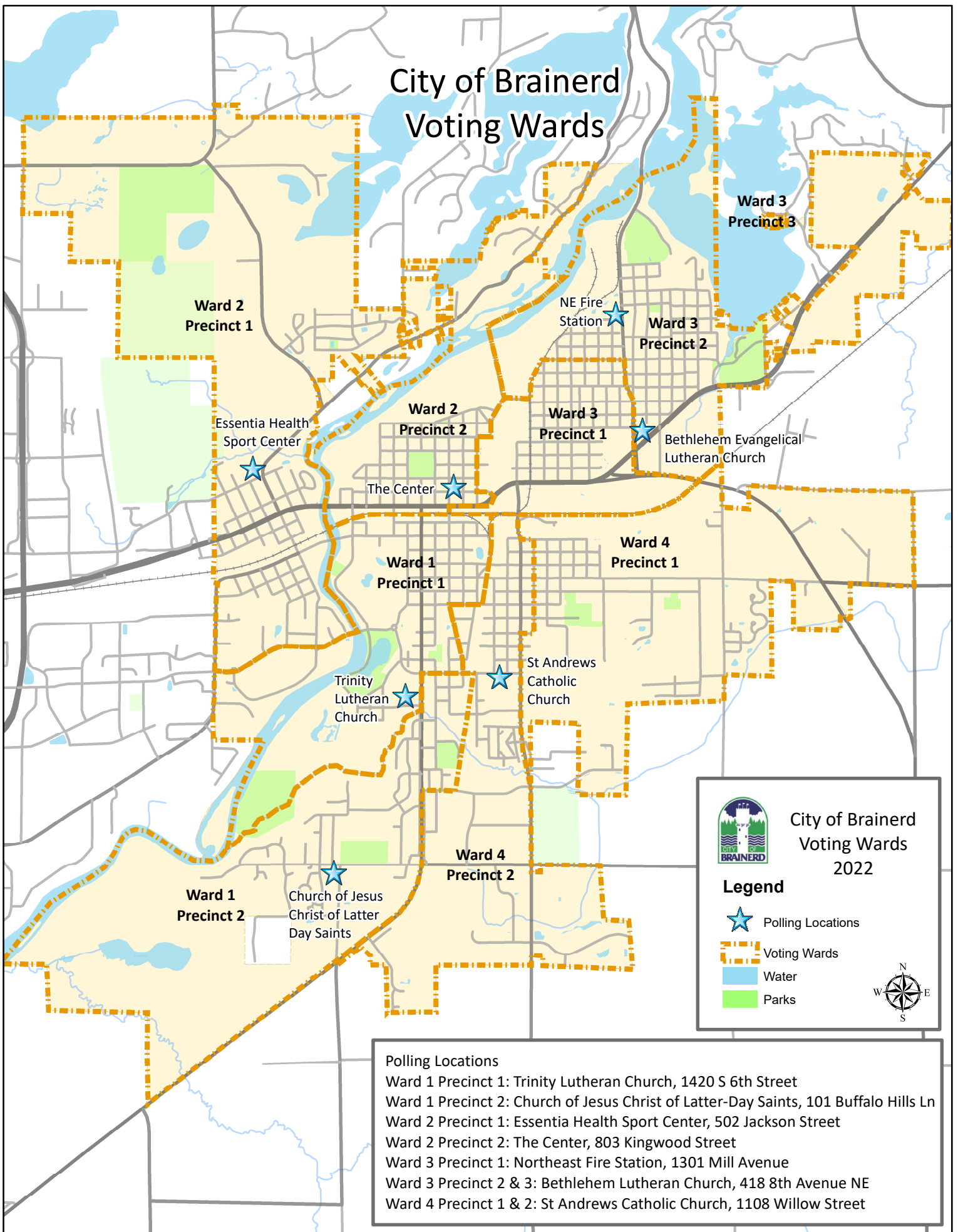
Page 3

across South 6th Street; and would it be difficult to direct voters to the specific location at CLC.

Pro of this option are CLC would like us to and sought out the City using their facility; Trinity wasn't used as the polling location in 2020 so the impact might not be as significant.

Staff is looking for Council to set the polling locations for Ward 4, and consider adopting a resolution reestablishing the precincts and polling places. If a resolution is not adopted at the March 21, 2022 meeting a special council meeting would be needed prior to March 29, 2022.

City of Brainerd Voting Wards





Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: First Reading - Proposed Ordinance No. 1524

☐ 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: Community Development Director	Department: Community Development
Presenter (Name & Title): David Chanski, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: Proposed Ordinance No. 1524 amends City Code Section 320: Administrative Citations. These amendments provide specific guidance for the manner in which code enforcement shall be conducted, the fines for violations of the Code, and the timeline by which violations of the Code shall be corrected.	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion: Motion to conduct the 1st reading of Proposed Ordinance No. 1524, an ordinance amending Section 320 of the City Code and dispense with the actual reading of the ordinance. * Note: a vote to dispense with the actual reading of the ordinance must be unanimous.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☐ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

**ORDINANCE
NO. 1524**

AN ORDINANCE AMENDING SECTION 320: ADMINISTRATIVE CITATIONS

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Section 320.05 of the City Code is hereby amended as follows:

Section 320.05 Authority to Issue Order to Correct Letters and Administrative Citations. The following City employees and agents are authorized to issue compliance letters and administrative citations for violations of the City Codes:

- 1) Licensed peace officers, the Crime Prevention Specialist, and Community Service Officers of the Brainerd Police Department;
- 2) City Building Official;
- 3) Building Inspectors;
- 4) Housing Inspector;
- 5) Animal Control Officer;
- 6) City Engineer;
- ~~7) City Planner;~~
- 7) **Community Development Director;**
- 8) **Assistant Planner;**
- 9) Fire Chief, or Fire Inspector of the Brainerd Fire Department

SECTION TWO: Section 320.07 of the City Code is hereby amended as follows:

Subd. 1 A violation of any provision of the City Code is an administrative offense which may be subject to an administrative citation and civil penalties pursuant to this ordinance. **~~Each day a violation exists constitutes a separate offense.~~**

~~Subd. 2 An administrative offense may be subject to a civil penalty not exceeding \$2,000.~~

Subd. ~~23~~ **The City Council shall adopt by resolution a schedule of recommended fines for offenses initiated by administrative citation. The schedule of fines for offenses initiated by administrative citation shall be:**

- **1st Citation: \$100**
- **2nd Citation: \$200**
- **3rd Citation: \$300**

The City Council is not bound by **this that**-schedule when a matter is appealed for administrative review.

Subd. 3 After the issuance of three (3) citations, the offense shall be brought before the Safety & Public Works Committee for determination of further action to correct the violation. Such actions may include but are not limited to abatement, issuance of further administrative citations in an amount determined by the Committee, or legal action. The determination of the Safety & Public Works

Committee shall then be referred as a recommendation to the City Council for final approval.

Subd. 4 The City Council may adopt a schedule of fees to be paid to administrative hearing officers.

Subd. 5 ~~The City Council shall adopt written procedures for administering the administrative citation program.~~ **The administration of the administrative citation program shall be conducted solely on a complaint drive basis. Offenses of a nature that may result in bodily harm, damage to property, or significant blight may be brought before the Safety & Public Works Committee without a complaint for determination whether to implement the administrative citation program. The determination of the Safety & Public Works Committee shall then be referred as a recommendation to the City Council.**

SECTION THREE: Section 320.09 of the City Code is hereby amended as follows:

Section 320.09 Order to Correct; Administrative Citations. Upon the reasonable belief that an administrative offense has occurred, the City officials listed in Section 320.05 shall serve on the violator an order to correct the violation. If compliance is not achieved within the timeline prescribed in the order to correct the violation, the official is authorized to issue an administrative citation. **Violations relating to property maintenance and violations of the Zoning Code, with the exclusion of violations relating to signs and off-street parking, shall be corrected within thirty (30) days of the date of the order to correct. All other violations of the Code shall be corrected within ten (10) days of the date of the order to correct.**

An administrative citation shall be presented in person or by first class mail to the person responsible for the violation. Service shall be deemed complete upon depositing the citation in the U.S. Mail, properly addressed to last known address of the person to be served and postage prepaid. The citation shall state the following: date, time and nature of the offense, citing the relevant portion of the City Code that was allegedly violated, the amount of the scheduled civil fine, and the manner for paying the fine, a statement that the City Code violation and the amount of the administrative civil penalty may be contested to be heard before an independent hearing officer by notifying the City Administrator or designated representative in writing within 10 days of the date of the citation, and a statement that failure to pay the administrative civil penalty may result in it being assessed against the property as provided in Minnesota Statutes Chapter 429.

SECTION FOUR: All other provisions of Section 320 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 _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published: One Time – _____



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: First Reading - Proposed Ordinance No. 1525

☐ 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: Community Development Director	Department: Community Development
Presenter (Name & Title): David Chanski, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: Proposed Ordinance No. 1525 completely repeals and replaces Section 425 of the City Code. Section 425 is the Rental Housing Maintenance Code.	
Alternatives, Options, Effects on Others/Comments: The City Council considered and generally accepted the recommended changes to Section 425 made by the rental housing committee on January 18th.	
Recommended Action/Motion: Motion to conduct the 1st reading of Proposed Ordinance No. 1525, an ordinance amending Section 425 of the City Code and dispense with the actual reading of the ordinance. * Note: a vote to dispense with the actual reading of the ordinance must be unanimous.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☐ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

**ORDINANCE
NO. 1525**

AN ORDINANCE REPLACING SECTION 425: RENTAL HOUSING MAINTENANCE CODE

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Section 425 of Chapter IV of the City Code is hereby repealed in its entirety and replaced with the following:

425.1000 Title: These regulations shall be known as the Rental Housing Code for the City of Brainerd.

425.1001 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, including issues of disorderly conduct on premises.

425.1002 Findings: The Council finds that there is a need to adequately protect safety, health and welfare of the tenants by establishing and enforcing minimum licensing standards for rental housing and establishing procedures for resolving issues of reoccurring disorderly conduct at rental properties.

425.1003 Intent: It is not the intention of the City to intrude upon the fair and contractual relationship between landlord and tenant. The City will 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.

425.1004 Definitions. The following words and phrases when used in the Rental Housing Code shall have the meanings respectively ascribed to them in this section:

Appropriate Action: The action which a reasonable license holder would take based upon the facts and circumstances of each case as to prevent a reoccurrence of a disorderly use.

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.

Cleanliness: 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.

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 two principal types:

- (1) **Single Unit:** A freestanding (detached) residence structure designed for or occupied by one family only.
- (2) **Multiple Unit:** Two (2) 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.

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.

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.

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.

IPMC: Stands for the most current version of "International Property Maintenance Code" as adopted by the City of Brainerd.

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

License Actions:

- (a) **Issue** – Rental license granted by the City of Brainerd.
- (b) **Revoke** – Take back, withdraw, annul, or cancel the license.
- (c) **Deny** – Withhold or refuse to grant a license

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.

Notice: Notification or warning of something, especially to allow preparations to be made.

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.

Roomer: An occupant of a rooming house who is not a member of the family of the operator or a member of the family occupying the dwelling unit.

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.

Any other definitions may be found in the current version of the International Property Maintenance Code adopted by the City of Brainerd

ARTICLE II. PROPERTY MAINTENANCE CODE

425.2000 All properties governed under this ordinance shall be subject to the property maintenance regulations set forth in Section 450 of the City Code.

ARTICLE III. RENTAL DWELLING LICENSES

425.3000 Definitions. Words used in this Article shall have the meanings ascribed in Section 425.1004 and/or Section 450 of the City Code, unless otherwise defined herein.

425.3001 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. Unlicensed rental dwellings or dwelling unit(s) will be fined per City Council Resolution.

425.3002 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, motels, hotels, licensed nursing homes, licensed board and care homes, rehabilitation centers, parsonages, parish houses, manses and rectories, hospitals, and owner-occupied dwelling units in a cooperative, condominium or townhouse building.

- (c) Any "Lease to Own" or "Rent to Own" type arrangement is still a rental and must be registered as such until such time as the rental dwelling purchase transaction is recorded.
- (d) Any "Contract for Deed" not properly recorded with the County as required by Minnesota State Statute 507.235. shall be considered a rental and subject to Section 425.
- (e) Accessory Dwelling Units permitted by the Zoning Administrator shall only be licensed as rental dwellings if the primary structure is owner-occupied and the accessory dwelling unit complies with all other conditions of this ordinance and those set forth in Sections 400 and 515 of the City Code.

425.3003 What the License Covers

- (a) One (1) license shall be issued for each rental dwelling but covers all units within the premises.
- (b) The City shall have authority to exercise its licensing powers under this article, including the power to issue, deny, and revoke licenses, with respect to an entire premises or unit(s) within the premises.

425.3004 Application for License. The owner or designated agent of each rental dwelling shall provide an initial written application to the Housing Inspector for the license to carry on the business of renting residential property. Such written application shall be made on a form furnished by the City of Brainerd for such purpose and shall set forth the following information:

- (a) Name, mailing address, business or residence address, telephone number, email of the owner. If the owner is a partnership, the name of the partnership, the name and 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 premises resides outside the fifty (50) miles radius of the City of Brainerd, the owner's agent/contact person shall reside within fifty (50) miles of the City of Brainerd.
- (b) If the owner has appointed an agent/contact person authorized to accept service of process and to receive and give receipt for notices, the name, business or residence address, telephone number and email of such agent/contact person.
- (c) Street address of the rental dwelling.
- (d) In the event, any of the information required to be provided by this section changes, the applicant or licensee shall, within fourteen (14)

calendar days, notify in writing the Housing Inspector, or an authorized representative of the Housing Inspector, of the change.

425.3005 Issuance of License. When, upon completion of an inspection of a rental dwelling and/or dwelling unit(s), the Housing Inspector finds that the minimum standards for licensing set forth in this article and the IPMC have been met, a rental dwelling license will be issued.

425.3006 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 denial or revocation:

- (a) Rental dwelling shall not exceed number of units per the zoning code in existence at the time of issuance of the initial license, provided that there is no lapse in licensure.
- (b) There shall be no delinquent property taxes or assessments owed on the rental dwelling.
- (c) There are no failing violations of the Brainerd Rental Housing Code or Zoning ordinances pertaining to the failing properties in which the licensee, applicant or property manager has a legal or equitable ownership interest or is involved in management or maintenance. Designated City Official has the ability to grant an extension of time.
- (d) An inspection must be completed and approved for newly added rental dwelling(s) or dwelling unit(s) before an initial license is issued.
- (e) A rental dwelling or dwelling unit must receive a passing score following inspection by the Housing Inspector.
 - (1) The Housing Inspector will use the designated Rental Property Checklist for the purpose of determining the existence of violations. The table of maximum violation points will be established by the Building Official and made available on the city's website and/or City Hall.
 - (2) The Housing Inspector shall assign points according to the severity of each code violation on a scale from one (1) 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 dimensions 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.

- (3) A dwelling or dwelling unit scoring twenty-five (25) or more points shall result in a failure and a re-inspection within thirty (30) calendar days or less. Failure to bring a dwelling or dwelling unit into compliance shall result in action to deny or revoke the dwelling or dwelling unit's license per Section 425.3012.
- (4) Any Code violation scoring ten (10) or more points is considered a major violation. Items of major violation shall be resolved in five (5) calendar days. Major violations shall be in the sole determination of the Housing Inspector and generally pose a hazard to life or safety of the occupants. Failure to correct violations shall result in action to deny or revoke the dwelling or dwelling unit's license per Section 425.3012
- (5) Any Code violation scoring fewer than ten (10) points is considered a minor violation. Items of minor violation shall be resolved prior to the rental license for a dwelling or dwelling unit(s) being renewed. Minor violations shall be in the sole determination of the Housing Inspector. Failure to correct violations may result in action to deny the renewal of the dwelling or dwelling unit's license per Section 425.3012. It is the responsibility of the owner/designated agent to request reinspection of all outstanding violations prior to applying for license renewal.
- (6) The Housing Inspector shall cause to be prepared and shall keep on file for public inspection an accurate, complete detailed description of each violation used in the point calculation procedure set forth herein.
- (f) Any person(s) who within previous two (2) years had financial ownership in two (2) or more licenses denied, excluding initial applications, or revoked pursuant to this article or to section 425.3012 or a combination of denials or revocations shall be ineligible to hold or have an interest in a rental dwelling license for a period of five (5) years.
- (g) No new rental dwelling license shall be renewed for a property during the pendency of adverse action initiated pursuant to section 425.3012.

425.3007 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 City of Brainerd. An individual who is operating a rental unit after the license has expired is operating an unlicensed rental dwelling. A dwelling or dwelling unit(s) with outstanding code violations shall not be renewed until such violations are corrected and inspected by Housing Inspector. Minor violations as described in Section 425.3006.E that receive a correction notice per Section 425.3011 between May 1 and May 31 shall be corrected before a license is renewed the following year.

425.3008 License Transferable. A license issued hereunder is transferable. A new application shall be required for each change of ownership of a rental dwelling. No inspection is required upon transfer if last inspection was within the past 12 months unless there are any outstanding violations.

425.3009 License Fees.

- (a) An annual license fee shall be assessed on all rental dwelling units. The license fee shall be included with the initial application or renewal statement. Such fee shall be set by resolution of the City Council. There shall be no fee for a change in ownership. 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 actions or fees due.
- (c) Renewal date is June 1st each year. Housing Inspector may placard rental premises if no action is taken by June 30th.

425.3010 Reinspection Fee.

- (a) There shall be no fee charged for an initial inspection and for the re-inspection. If a third inspection is needed for compliance an additional fee will be charged according to City Council resolution.
- (b) The reinspection fee prescribed above shall be billed directly to the owner or contact person/agent of the property. Reinspection fees shall be paid within thirty (30) calendar days after initial billing. Failure to pay such fees shall be grounds for additional administrative citations.
- (c) The Housing Inspector may waive a reinspection fee in case of error, mistake, injustice, or other good cause.

425.3011 Noncompliance Dwelling or Dwelling unit Notice.

- (a) If a dwelling or dwelling unit(s) fails to meet the licensing standards set forth in Section 425.36 and if the Designated City Official determines either are in “noncompliance” the following actions will take place:
 - (1) A correction notice shall be in writing, sent first class mail or an emailed form to the owner/designated agent on the license.
 - (2) Notice shall state reasons for noncompliance.
 - (3) Notice shall indicate the time period that the licensee will have to correct items of noncompliance
 - a. Thirty (30) calendar days is the standard time period for corrections

- b. Any items affecting health, life or safety shall have five (5) calendar days for correction
 - (4) Designated City Official may grant the licensee an extension of time with due notice
 - (5) In the case of imminent danger of a person's health and/or safety, a dwelling unit(s) may be placarded to be unfit for habitation.
 - (6) In severe cases of imminent danger proceedings may begin to revoke or deny the license per Section 425.3012
- (b) When a licensee has failed to comply with the correction notice and a citation has been issued, the tenant shall be notified:
- (1) Notice shall be mailed to the tenant
 - (2) Notice shall indicate what action is required
 - (3) Notice shall state time period for items to be corrected
 - (4) Notice shall state if noncompliance items are not corrected, it shall be recommended to City Council to deny or revoke the current license
 - (5) If license is denied or revoked a placard will be placed on dwelling and/or dwelling unit(s) to vacate the unit(s).

425.3012 Denial; Revocation. If after any period for compliance under Section 425.3011 has expired, the Designated City Official determines that the dwelling and/or dwelling unit(s) fails to comply with any of the licensing standards in Sections 425.3006, or the Police Department has initiated an action to deny or revoke a license pursuant to section 425.8000, the Designated City Official shall send by certified mail, the owner a notice of denial or revocation of the license. The notice shall state:

- (a) That the Designated City Official has determined that the dwelling and/or dwelling unit(s) fails to comply with the licensing standards for rental dwellings in Section 425.3006, that the licensee has failed to take appropriate action following conduct by tenants and/or their guests on the licensed premises under Section 425.8000, or that the licensee has failed to submit a written management plan that satisfies the requirements set forth in 425.8000(d).
- (b) The specific reasons why the dwelling and/or dwelling unit(s) fails to meet licensing standards, including copies of applicable inspection reports, or notices sent to licensee of conduct on licensed premises.
- (c) That the Designated City Official has referred the matter to the City Council with a recommendation to deny or revoke the license.
- (d) That the City Council may per sub section (a) above deny or revoke the license unless the owner appeals the determination within fifteen (15) business days after the date of the notice, in the manner provided in Section 425.3014.
- (e) The Designated City Official shall cause a notice to tenants to be mailed or delivered to each licensed dwelling unit(s) and prominently posted on the building. The notice shall indicate that the rental dwelling license for

the unit(s) has been denied or revoked. The action will become final on a specific date by which time the tenant needs to vacate the dwelling unless the owner/designated agent appeals and request a hearing.

- (f) That after denial or revocation the dwelling or the affected dwelling units therein must be vacated in seven (7) calendar days and shall not be reoccupied until all violations are corrected and a license is granted by the City Council.

425.3013 Reinstatement Fee. A fee set by City Council resolution must accompany any application for reinstatement of any license that has been denied or revoked under Section 425. This reinstatement fee is in addition to the license fees imposed pursuant to Section 425.3009.

425.3014 Rental Dwelling License Board of Appeals.

- (a) The Board is advisory to the City Council. They shall have the authority to hear and recommend action on all appeals from the Designated City Official to deny or revoke a rental dwelling license.
- (b) The Board shall render its recommendation in writing within twenty (20) days after the close of the hearing. The recommendation shall determine whether the dwelling or dwelling units therein, meets the standards of Section 425 and shall specify the basis of determination.
- (c) The Board shall mail a copy of its recommendation to the owner/designated agent and to each affected licensed dwelling unit(s).
- (d) The Board shall refer its decision to the City Council, which shall have final authority to deny or revoke the license. The City Council may hear argument from the owner/designated agent but shall take no further evidence. The City Council may affirm, modify, or reverse the decision of the Board.
- (e) The final decision of the City Council shall be mailed to the owner/designated agent.
- (f) A notice to tenants of the final decision shall be mailed to and prominently posted on the dwelling and or affected dwelling units(s). A notice of denial of an appeal shall indicate the date upon which tenants must vacate the dwelling and, for other than single family dwellings, shall clearly indicate which dwelling unit(s) are affected.

425.3015 Vacation of Affected Rental Dwelling. When an application for rental dwelling license has been denied, or a rental dwelling license has been revoked, or when the owner has not obtained a current rental dwelling license upon proper application as required by this Chapter, the Designated City Official shall order the dwelling or the affected dwelling units therein vacated, giving tenants seven (7) calendar days to arrange new housing and to move their possessions, except when extension of time has been granted by the Designated City Official.

425.3016 Unauthorized Removal of Notices is a Petty Misdemeanor. Any person who removes, defaces, tampers or in any way interferes with any notices posted pursuant to this article is guilty of a petty misdemeanor.

425.3017 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.

425.3018 Duties of Licensee. Every holder of a rental dwelling license shall:

- (a) Submit current application information as required by Section 425.3004 and 425.3008.
- (b) Post the license certificate when received from the Designated City Official. (MN STATUTE 471.9995). In multi-unit dwellings, it may be posted in a common area. In all other dwellings the license must be readily available upon request by the Designated City Official.
- (c) Maintain a current register of all tenants occupying 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 Designated City Official or by warrant during normal business hours or upon any emergency situations.
- (d) Permit the Designated City Official, 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 Code, IPMC and the Fire, Health, Zoning and Building Codes of the City. Such inspections shall be made at such frequencies as the Designated City Official deems appropriate and necessary. When practical, shall provide reasonable advance notice to the owner/designated agent.
- (e) The owner of any dwelling which is required to be licensed by Section 425 shall, prior to the time of sale of said dwelling, notify the buyer in writing of all current/pending violations issued by the Designated City Official pertaining to said dwelling and the requirement by law to be licensed with the City of Brainerd if remaining a rentable property. A copy of the notification shall be mailed to the Designated City Official within fourteen (14) business 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.

425.3019 Notices. Whenever a notice is required to be sent to or served upon the licensee of a rental dwelling under Section 425, notice shall be deemed sufficient if sent by first class mail and/or email to the owner/ designated agent at the address specified in the last license application filed with the City of Brainerd under Section 425.3004. If a notice sent to the address specified in the last license application is returned, and the owner or designated agent cannot be found, then notice shall be sent to the person authorized in the last license application, under subsection 425.3004(c), as responsible for the maintenance and management of the premises and a notice shall also be posted on the dwelling and/or dwelling unit(s). 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 occupants of each licensed dwelling unit(s) at the address specified in the license application or the register that the licensee maintains pursuant to section 425.3018(b).

ARTICLE IV. ROOMING HOUSES

425.4000 Compliance Required. No person shall operate a rooming house or 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 Code.

425.4001 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.

425.4002 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.

425.4003 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.

425.4004 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.

425.4005 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 available for inspection by the Chief of Police, County Health Authority, Housing Inspector, or Fire Chief, or their authorized representatives.

425.4006 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.

ARTICLE V. SHARED BATH DWELLING UNITS

425.5000 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 Code.

425.5001 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.

ARTICLE VI. BUILDING SECURITY

425.6000 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.

425.6001 General. Doors, windows or hatchways for dwelling unit(s) or rooming units shall be provided with devices designed to provide security for the occupants and property within and shall comply with IPMC. Exception:

- (a) 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.
- (b) 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, secure position, will prevent the doors from being opened from the outside.

- (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.

425.6002 Window Security. Window security shall comply with IPMC and shall be provided at the prime window or door. Latching or locking device on storm sash or screen frames will not be accepted as meeting the intent of this Section.

425.6003 Responsibility for Security. The owner/designated agent in charge of buildings covered by this Article shall be responsible for compliance with the terms and provisions of this Article.

425.6004 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 425.6008.

425.6005 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.

425.6006 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.

425.6007 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 Designated City Official. 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.

425.6008 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 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 to be readily distinguishable and readable from the public way, front and rear.

425.6009 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 reconnection;
 - (3) At the request of the tenant;
 - (4) To protect the health and safety of the tenants;
 - (5) When the activity does not require the company to access the building through the security doors.

ARTICLE VII. MISCELLANEOUS

425.7000 Storm Windows and Doors that are provided by the owner shall be maintained and functional and used properly for energy saving manner.

425.7001 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 current the Building Code.
- (c) The total openable window area or mechanical ventilation in each room is equal to at least the minimum s required in the current Building Code.
- (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 702.4 of the IPMC.

425.7002 Fire Extinguishers. 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. Two or more dwelling units extinguishers must be located within 75 feet of all unit(s) entrance doors. The minimum size and classification shall be Model 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.

ARTICLE VIII. CONDUCT ON PREMISES

Conduct on Licensed Premises

- (a) **The Brainerd Police Department shall be responsible for the enforcement and administration of this Section.**
- (b) **It shall be the responsibility of the licensee of a rental premises license to take appropriate action, with the assistance of the appropriate City of Brainerd Staff, following a pattern of disorderly conduct or use by tenants and/or their guests on a licensed dwelling unit(s) premises which is determined to be disorderly (in violation of any of the following statutes or ordinances) to prevent further violations.**
 - (1) **Minnesota Statutes, Section 609.75 through 609.76, which prohibits gambling;**
 - (2) **Minnesota Statutes, Section 609.321 through 609.324, 617.80, Subdivision 4 which prohibits prostitution, sex trafficking and acts related thereto;**
 - (3) **Minnesota Statutes, Section 152.01 through 152.025, and Section 152.027, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of a controlled substances.**
 - (4) **Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages; and section 2007.05(a)(1) of the Brainerd City Code which addresses Social Host violations involving underage drinking;**
 - (5) **Minnesota Statutes, Section 609.72, which addresses disorderly conduct. The City of Brainerd will count violation(s) of disorderly conduct against a licensed dwelling unit under Section 425.2020 of this ordinance when the violation disturbs the peace and quiet of the occupants of at least two (2) units on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation; or when at least (2) distinct violations, separated by no more than sixty (60) days, disturbing the peace and quiet of at least one (1) unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation, and the violations are reported by distinct and separate complaints;**
 - (6) **Minnesota Statutes, Section 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, and Section 520.01 of Brainerd City Code which prohibits unlawful use or possession of a firearm;**
 - (7) **Section 2014 of the Brainerd City Code, which address noise related issues;**
 - (8) **Minnesota Statute 504B.171, Eviction for Illegal Activities.**

- (c) The Brainerd Police Department shall make the determination that a violation of disorderly conduct or use as described in Subsection (b) has occurred on the licensed premises based upon substantial evidence to support such a determination utilizing established procedures. It shall not be necessary that criminal charges be brought to support a determination of a violation of disorderly conduct or 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. The Brainerd Police Department shall notify the licensee and tenant by certified mail, and/or email of the violation and direct the licensee to take appropriate action with the assistance of the Brainerd Police Department to prevent further violations.**
- (d) Management Plan Required: The Owner or Operator of a licensed dwelling unit(s) must submit a written management plan in a format prescribed by the Brainerd Police Department whenever any of the following occurs:**

 - (1) A violation as described in Subsection (b) and as determined in Subsection (c) is deemed to be a threat to public safety; or**
 - (2) A second violation of disorderly conduct or use by tenants and/or guests of a licensed dwelling unit on the premises occurs within twelve (12) months of a violation for which a notice in Subsection (c) was given; or**
 - (3) For licensed multiple dwelling unit(s) on a premises, if more than four (4) violations as described in Subsection (b) occurs within twelve (12) months of a violation for which a notice in Subsection (c) was given.**
 - (4) The licensee shall submit the written management plan to the Brainerd Police Department within ten (10) days of receipt of the violation(s) of disorderly conduct or use on the premises. The written management plan shall detail all actions taken by the licensee in response to all violation of disorderly conduct or use on the premises within the preceding twelve (12) months. The written management plan shall also detail all actions taken by the licensee to prevent further violation(s) of disorderly conduct or use on the premises. Failure to submit a written management plan may result in an action to deny or revoke the license of the subject dwelling unit(s). An escalated reoccurring fee will be assessed by the city fee schedule for failure to submit a written management plan.**
- (e) Recurring violations on a premises operating under a management plan as described in Subsection (d) may result in the following actions taken:**

 - (1) If a third violation of disorderly conduct or use by tenants and/or guests of a licensed dwelling unit on the premises occurs within twenty-four (24) months of the first of any two (2) previous**

violation of disorderly conduct or use for which notices were sent to the licensee pursuant to this section, the dwelling unit license for the premises may be denied or revoked. Action shall be initiated by the Brainerd Police Department in the manner described in Section 425.3012.

- (2) For licensed multiple dwelling unit premises, if three (3) additional violations as described in Subsection (b) occur within twenty-four (24) months following a requirement to submit a management plan under Subsection (d)(3), the Housing Inspector shall require an immediate inspection of all licensed dwelling unit(s) of the premises and may impose a penalty of ten (10) points as described in Section 425.3006 (e) to each licensed dwelling unit of the premises. Such penalty points shall not be considered a major violation under Section 425.3006 (e).

- (f) No adverse license action shall be imposed where the instance of a violation of disorderly conduct or use on the premises of a licensed dwelling unit occurred during the pendency of eviction proceedings or after proper notice is given by the licensee to a tenant to vacate the dwelling unit, where the violation of disorderly conduct or 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 or revoke a rental 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 violation(s) of disorderly

SECTION TWO: Effective Date of Ordinance. The effective date of this Ordinance is one week from and after its publication.

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published: One Time on _____, 2022



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: First Reading - Proposed Ordinance No. 1526

☐ 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: Community Development Director	Department: Community Development
Presenter (Name & Title): David Chanski, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: Proposed Ordinance No. 1526 completely repeals and replaces Section 450 of the City Code. Section 450 is the Property Maintenance Code.	
Alternatives, Options, Effects on Others/Comments: The City Council accepted the recommendation of the rental housing committee to replace the existing property maintenance code with the International Property Maintenance Code (IPMC). There are a number of amendments to the IPMC that this proposed ordinance makes. These amendments are to make certain sections of the IPMC more Brainerd specific.	
Recommended Action/Motion: Motion to conduct the 1st reading of Proposed Ordinance No. 1526, an ordinance amending Section 450 of the City Code and dispense with the actual reading of the ordinance. * Note: a vote to dispense with the actual reading of the ordinance must be unanimous.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☐ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

**ORDINANCE
NO. 1526**

AN ORDINANCE REPLACING SECTION 450: PROPERTY MAINTENANCE CODE

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Section 450 of Chapter IV of the City Code is hereby repealed in its entirety and replaced with the following:

450.01 Title: The City of Brainerd has designated *the International Property Maintenance Code* (IPMC) as the Property Maintenance Code of the City of Brainerd for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Brainerd; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code. This ordinance shall perpetually include the most current edition of the *International Property Maintenance Code* with the exception of the provisions provided herein.

425.02 Amendments to the IPMC: The following sections of the *International Property Maintenance Code* are amended as follows:

Subd. 1 Generally. References to other codes and standards promulgated by the International Code Council in the *International Property Maintenance Code* are modified in this part.

Subd. 2 Building Code. References to the *International Building Code* mean the *Minnesota Building Code*, Minnesota Rules, Chapter 1305 or mean the *Minnesota Residential Code*, Minnesota Rules, Chapter 1309 or mean the *Minnesota Electrical Code*, Minnesota Rules, Chapter 1315.

Subd. 3 Residential Code. References to the *International Residential Code* mean the *Minnesota Residential Code*, Minnesota Rules, Chapter 1309.

Subd. 4 Electrical Code. References to the *NFPA 70* mean the *Minnesota Electrical Code*, Minnesota Rules, Chapter 1315.

Subd. 5 Fuel Gas Code. References to the *International Fuel Gas Code* mean the *Minnesota Mechanical and Fuel Gas Code*, Minnesota Rules, Chapter 1346.

Subd. 6 Mechanical Code. References to the *International Mechanical Code* mean the *Minnesota Mechanical and Fuel Gas Code*, Minnesota Rules, Chapter 1346.

Subd. 7 Plumbing Code. References to the *International Plumbing Code* mean the *Minnesota Plumbing Code*, Minnesota Rules, Chapter 4714.

Subd. 8 Fire Code. References to the *International Fire Code* mean the *Minnesota Fire Code*, Minnesota Rules, Chapter 7511.

Subd. 9 Energy Conservation Code. References to the *International Energy Conservation Code* mean the *Minnesota Energy Code*, Minnesota Rules, Chapters 1322 and 1323.

Subd. 10 Existing Building Code. References to the *International Existing Building Code* mean the *Minnesota Residential Code*, Minnesota Rules, Chapter 1309.

Subd. 11 Accessibility Code. References to accessibility mean the *Minnesota Accessibility Code*, Minnesota Rules, Chapter 1341.

Subd. 12 Zoning Code. References to the International Zoning Code mean the City of Brainerd Zoning Code, Section 515.

Subd. 13 Section 101.1 of the IPMC. Insert: [the City of Brainerd]

Subd. 14 Section 102.3 of the IPMC. Application of other codes - is amended as follows: Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the currently adopted Minnesota State Building Codes and Minnesota Fire Codes. Nothing in this code shall be construed to cancel, modify, or set aside any provision of the City of Brainerd Zoning Code.

Subd. 15 Section 103.1 Insert: [Property Maintenance Inspection]

Subd. 16 Section 104.1 Fees – is amended as follows: The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in Section 1015.01 of the Brainerd City Code.

Subd. 17 Section 107 Means of Appeal is deleted in its entirety.

Subd. 18 Section 108 Boards of Appeals is deleted in its entirety.

Subd. 19 Section 112.6 Hearing is deleted in its entirety.

Subd. 20 Section 302.4 insert: [six (6) inches in height]

Subd. 21 Section 302.14 insert: [May 1 to November 1]

Subd. 22 Section 304 is amended by the addition of the following section:

304.20 Exterior Completion of Single-Family and Two-Family Dwelling Unit Buildings. The roof and all exterior surfaces of single-family dwelling unit and two-family dwelling unit buildings, and buildings and structures accessory thereto, shall be completed with exterior finish materials within one (1) year from the effective date of this subdivision or within one (1) year after the date of the building permit, whichever is later, for the new construction, alteration, remodeling or relocation of such building or structure.

Any person unable to satisfy conditions of this subdivision due to unforeseen conditions having a significant impact on the completion of the exterior may request an extension to the initial one (1) year time limit. Such a request shall be made in writing, submitted at least thirty (30) days prior to the initial expiration date. The request shall be reviewed by the City Building Official and City Planner. One (1) extension of up to one (1) year may be granted by joint approval of the City Building Official and City Planner if the exterior work is proceeding expeditiously and will be at least fifty percent (50%) complete at the end of the initial one-year period. The decision of staff may be appealed to the City Council. Subsequent requests for time extensions shall require a formal variance pursuant to Section 515-7.

The term “finish materials” as used in this subdivision shall mean materials installed in compliance with the building code and shall include, but not be limited to stucco, brick, stone, shingles or shakes, painted, stained or color clad siding materials, windows, and doors. Tar paper, unfinished plywood, fiberboard sheathing, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be exterior finish shall not be considered an acceptable exterior finish.

Subd. 23 Section 308.3.1 Garbage facilities is deleted in its entirety.

Subd. 24 Section 602.3. insert: [October 15 to April 15]

Subd. 25 Section 602.3. insert: [October 15 to April 15]

Subd. 26 Appendix B Board of Appeals is deleted in its entirety.

SECTION TWO: Effective Date of Ordinance. The effective date of this Ordinance is one week from and after its publication.

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published: One Time on _____, 2022



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: First Reading - Proposed Ordinance No. 1527

☐ 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: Community Development Director	Department: Community Development
Presenter (Name & Title): David Chanski, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: Proposed Ordinance No. 1527 completely repeals and replaces Section 515 of the City Code and the Zoning Map. Section 515 is the Zoning Code.	
Alternatives, Options, Effects on Others/Comments: The Planning Commission will be conducting the Public Hearing on the proposed zoning code during their meeting on March 16. As the City Council packet has been published prior to the Planning Commission's meeting, the Planning Commission's recommendation to adopt the proposed Zoning Code will be provided to the Council following their meeting. Community Development Director Chanski and Jennifer Haskamp with Swanson Haskamp Consulting will make a short presentation prior to the Council's consideration of this proposed ordinance.	
Recommended Action/Motion: Motion to accept the Planning Commission's recommendation to (accept or deny) the proposed zoning code, conduct the 1st reading of Proposed Ordinance No. 1527, an ordinance amending Section 515 of the City Code and Zoning Map and dispense with the actual reading of the ordinance. * Note: a vote to dispense with the actual reading of the ordinance must be unanimous.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☒ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

**ORDINANCE
NO. 1527**

**A SUMMARY ORDINANCE REGARDING THE REPEAL AND REPLACEMENT OF
CHAPTER 515 - BRAINERD ZONING ORDINANCE**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Purpose and Findings.

1. The City Council adopted the 2035 Comprehensive Plan in 2020 and its purpose is to guide the land use and development policy for the City over the next 15-years; and
2. Chapter 515 - Brainerd Zoning Ordinance - is one of the City's official controls to manage and regulate land use and is required to be consistent the City's adopted Comprehensive Plan.
3. After significant study, discussion and research the City prepared comprehensive revisions to Chapter 515 that include new and reorganized sections; and
4. Based on the revisions identified in Chapter 515, the City's Official Zoning Map must be revised to reflect the changes and updates contained within the Chapter; and
5. The City determined that to implement the Comprehensive Plan it would be most clear to fully repeal and replace Chapter 515 and to adopt the revised Zoning Map.

SECTION TWO: Exception

1. The City acknowledges that certain developments within the City are not complete and that the revisions contained in the revised Chapter 515 would adversely affect their completion.
2. Any pending development or project with formal land use approval shall not be subject to the revised regulations contained in Chapter 515; and
3. The City identifies the following developments, and future phases on land owned by the same, as of the effective date of this Ordinance excepted from the revisions:
 - a. Brainerd Oaks
 - b. Northtown
 - c. Serene Pines

SECTION THREE: Repeal and Replacement.

4. Notice is hereby given that on March 21, 2022 and April 4, 2022 the City Council conducted the required readings of this Ordinance and the revisions contained in Chapter 515 and the Official Zoning Map consistent with the City Charter.
5. Notice is hereby given that this Ordinance repeals and replaces in its entirety

Chapter 515 – Brainerd Zoning Ordinance - and the Official Zoning Map.

6. Further, given the length of the revisions associated with the full replacement of Chapter 515 this summary ordinance has been prepared for publication and is approved by the City Council as authorized by State law.

7. Notice is hereby given that a printed copy of the whole ordinance, include the revised Official Zoning Map, is available for inspection by any person during the City's regular office hours or on the City's website.

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

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published: One Time – _____

MEMO



TO: Planning Commission

FROM: David Chanski, Community Development Director

DATE: March 11, 2022

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

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

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

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

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

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City of Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

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City of Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

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City of Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

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Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

515-1 TITLE

515-1-1 Title and Application.

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

515-1-2 Intent and Purpose.

- A. Protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations governing development and use.
- B. This Ordinance shall divide the City into Base Zoning Districts and Overlay Districts that establish regulations for location, erection, construction, reconstruction, alteration and use of structures and land.
- C. Protect neighborhoods.
- D. Promote orderly development and redevelopment of land for residential, commercial, industrial, recreational and public areas.
- E. Provide adequate light, air, and convenience of access to property.
- F. Prevent congestion in the public rights-of-way.
- G. Prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population.
- H. Protect and preserve the natural environment of the City.
- I. Encourage the protection of historic and aesthetic resources in the City.
- J. Conserve energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial and residential uses.
- K. Provide for compatibility of different land uses.
- L. Provide for administration of this Ordinance.
- M. Establish penalties for violation of this Ordinance.
- N. To define powers and duties of the Zoning Administrator, City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to this Ordinance.

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

515-1-4 Minimum Requirements.

- A. In the interpretation of the City, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare of the community.
- B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

515-1-5 Conformance with this Ordinance.

- A. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered; and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Ordinance.
- B. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.

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

- A. If any court of competent jurisdiction shall judge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

515-1-7 Authority.

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

Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

515-2 ZONING DISTRICTS

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

515-2-2 Zoning Districts Established.

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

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

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

Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

515-2-3 Base Zoning Districts

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

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

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

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

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

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

Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

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Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

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

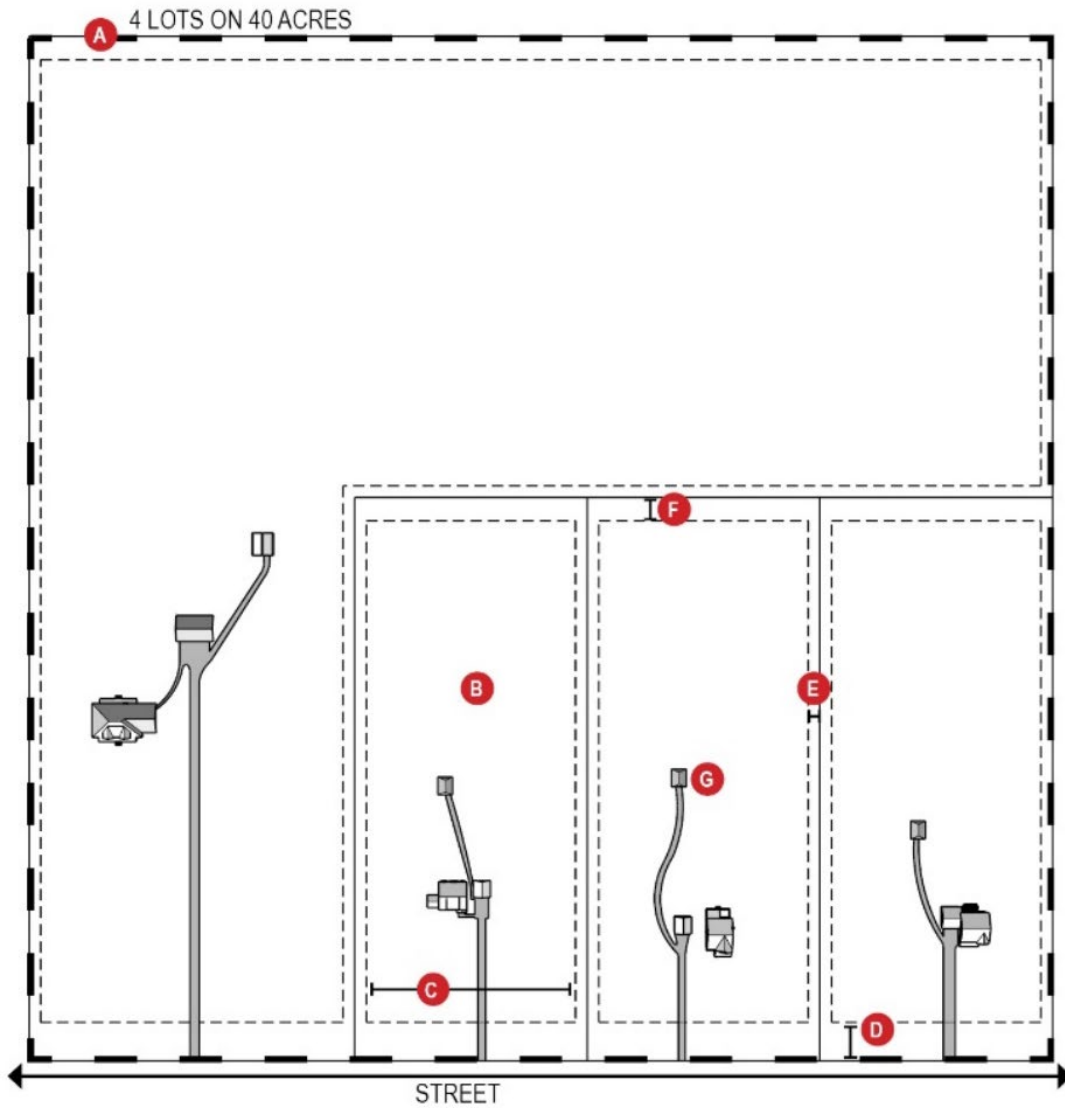
- A. **Purpose of Rural Living Zoning Districts.** The RL Districts are intended for areas where Urban Services are not presently available. Lands zoned RL-1 do not currently have Urban Services, but future subdivision may occur when the expansion of Urban Services is economical. Lands zoned RL-2 are served by private well and septic and there are no plans for future expansion of Urban Services to the property.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **RL-1 and RL-2 Zoning District Dimensional Standards.** Table 515-2-4.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

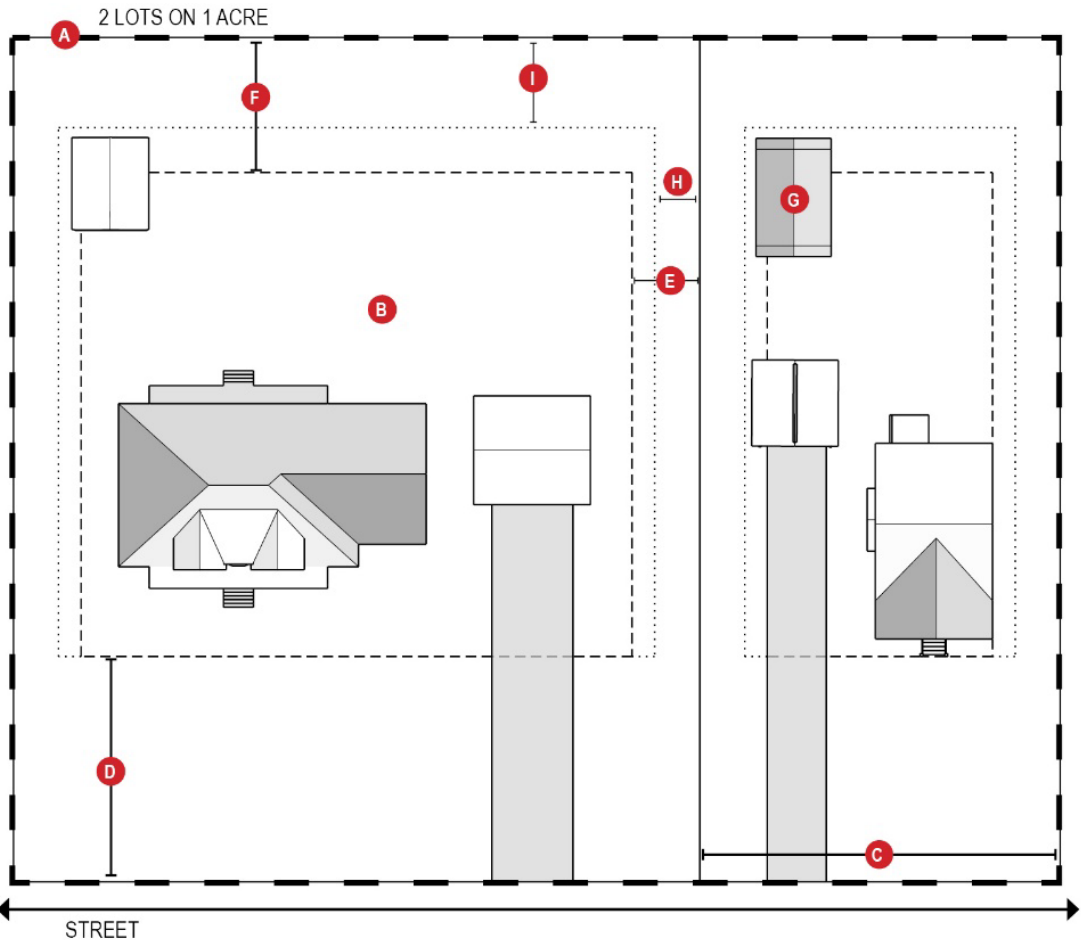
- A. **Purpose of Garden Living Zoning District.** The GL Zoning District is intended for areas where Urban Services are available, and lots and parcels are served by public water, sewer, stormwater, streets and other public infrastructure. Lands zoned Garden Living are predominantly developed with single-family detached buildings and supporting accessory uses.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **GL Zoning District Dimensional Standards.** Table 515-2-5.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

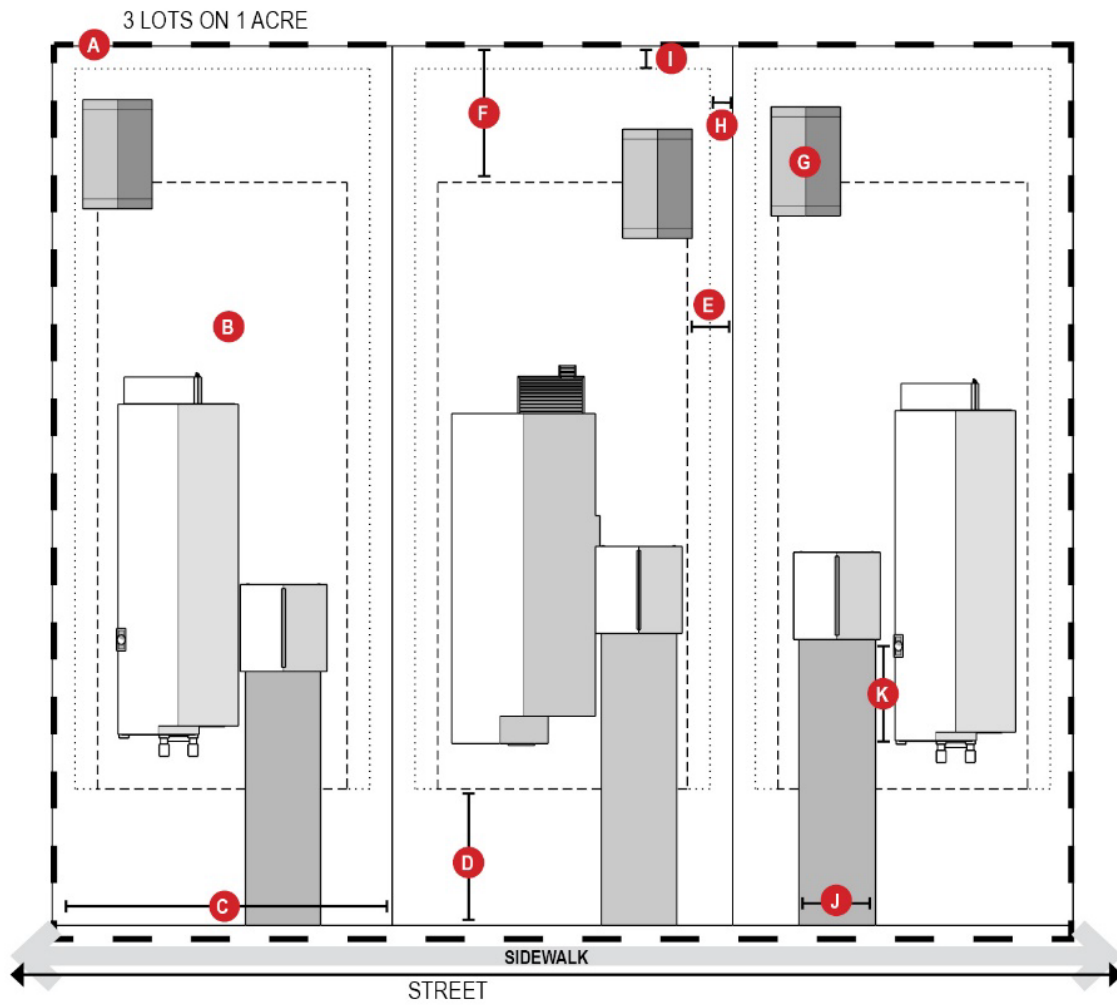
- A. **Purpose of Contemporary Neighborhood 1 Zoning District.** The purpose of the CN-1 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Lots in this District are typically developed with front-loaded garages, with larger private yard spaces. The lots are wider with principal structures setback and connected to public right-of-way with a private driveway.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **CN-1 Zoning District Dimensional Standards.** Table 515-2-6.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

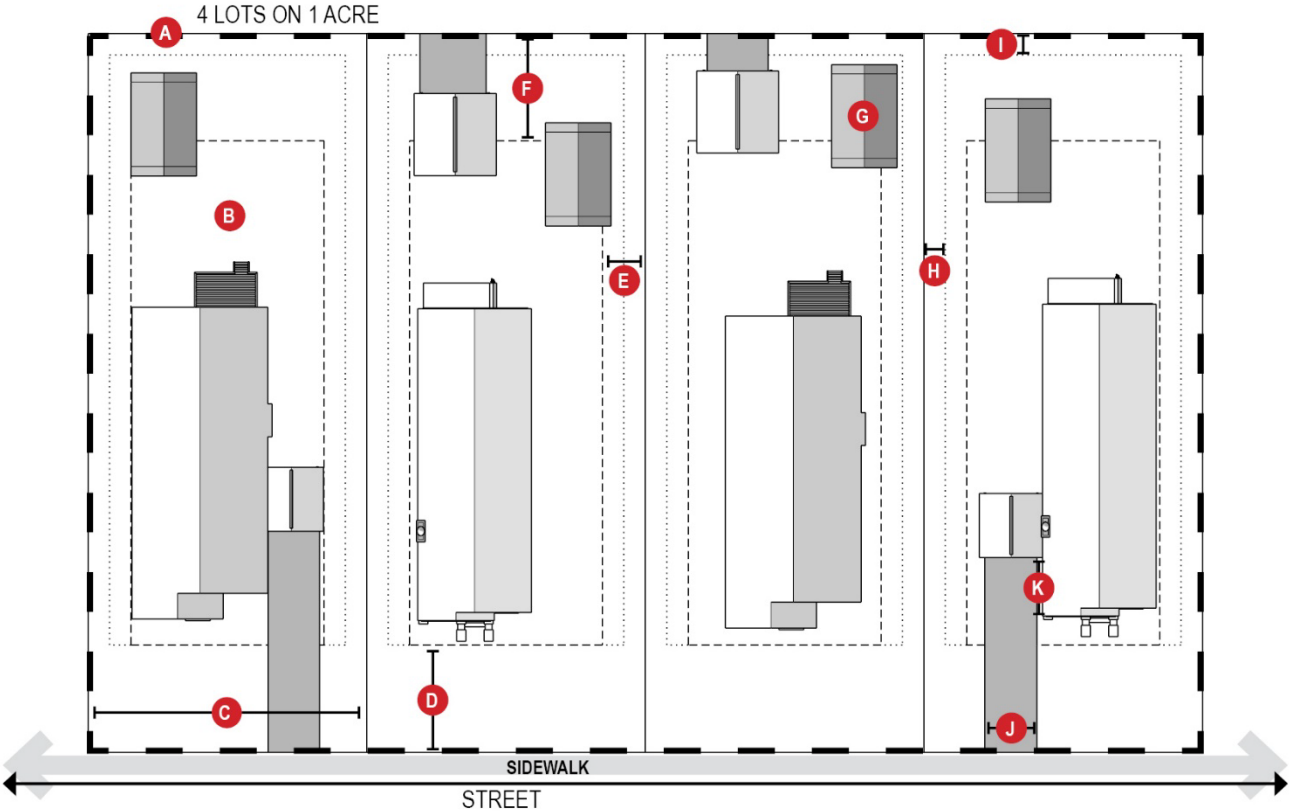
- A. **Purpose of Contemporary Neighborhood 2 Zoning District.** The CN-2 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Some single-family attached and multi-family uses may be present woven throughout this District. Lots in this District are typically developed with front-loaded garages and principal structures setback and connected to public right-of-way with a private driveway.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **CN-2 Zoning District Dimensional Standards.** Table 515-2-7.1 identifies the Dimensional Standards for Principal and Accessory structures.

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

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

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



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

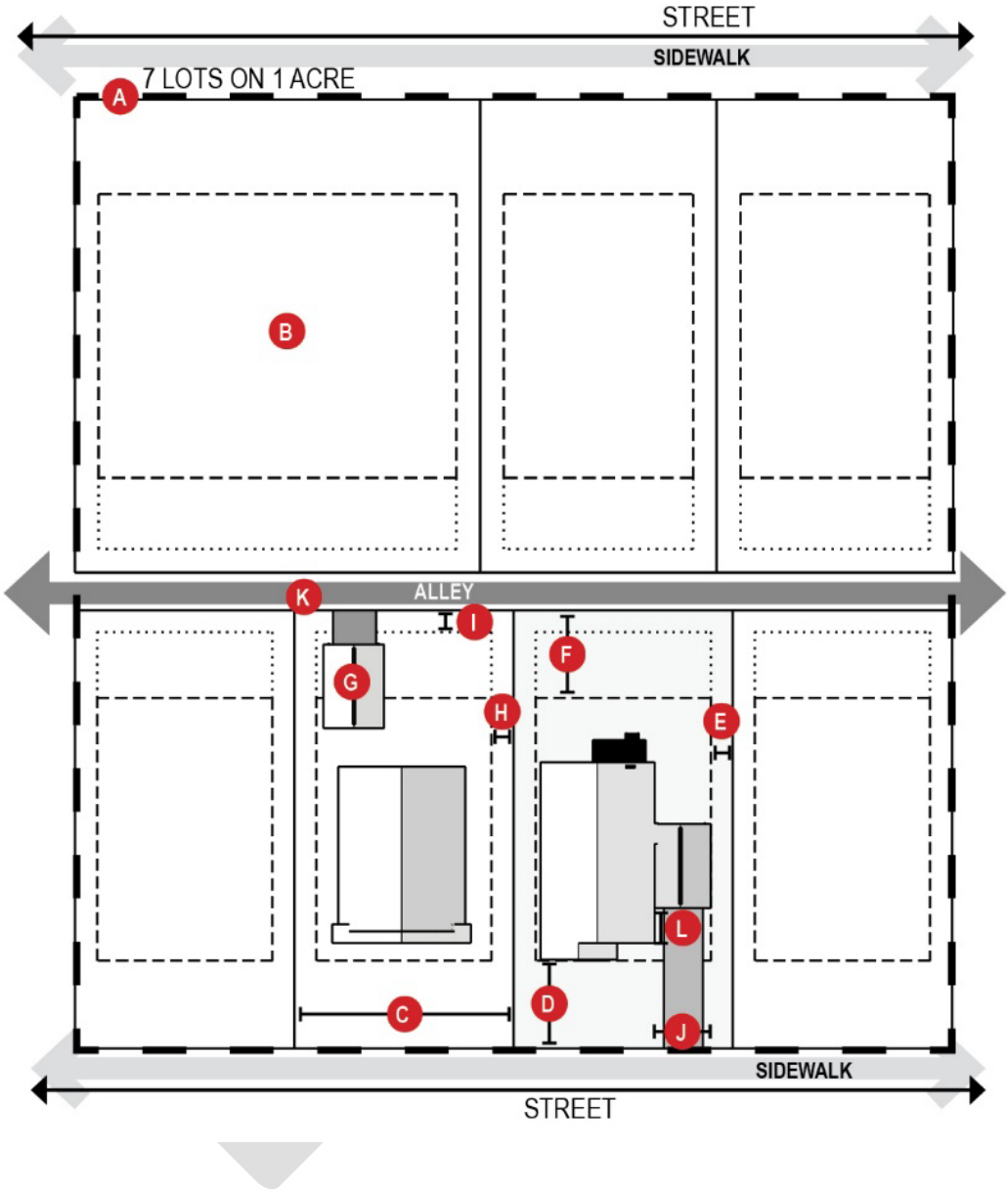
- A. **Purpose of Traditional Neighborhood 1 Zoning District.** The TN-1 Zoning District is intended to provide for a compact, pedestrian-oriented mix of residential uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports future development or redevelopment that is consistent with this pattern.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **TN-1 Zoning District Dimensional Standards.** Table 515-2-8.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

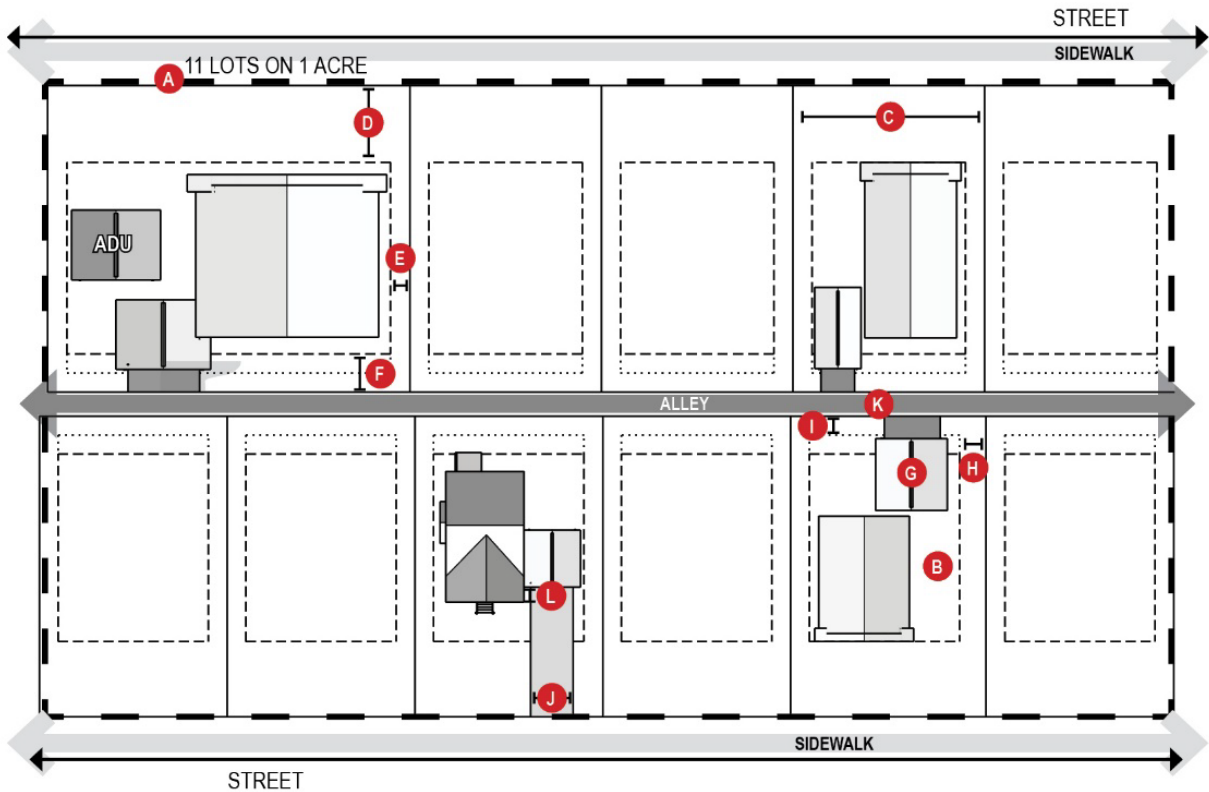
- A. **Purpose of Traditional Neighborhood 2 Zoning District.** The TN-2 Zoning District is intended to provide for compact, pedestrian-oriented mix of residential and neighborhood-serving commercial uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports development and redevelopment consistent with this pattern.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **TN-2 Zoning District Dimensional Standards.** Table 515-2-9.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

- A. **Purpose of the Traditional Neighborhood-3 Zoning District.** The TN-3 Zoning District is intended to allow larger sites/parcels (typically undeveloped “greenfield” sites) to be developed as a full mixed use, traditional neighborhood that is walkable, connected by a prominent public realm and supports a wide range of residential (attached and detached), commercial and community uses. The structure of the TN-3 District provides the City and future development groups with the regulations and guidelines needed to develop a comprehensive, resilient, and walkable neighborhood. The district regulations provide the following:
1. A network of connected streets and blocks.
 2. General block sizes and configurations that support the Future Land Use plan.
 3. Maximum block perimeters that foster attractive, safe, and walkable environments, while enhancing circulation through the site.
- B. **Regulating Plan.** The TN-3 district is implemented through a Regulating Plan, approved with the rezoning to TN-3, which includes a combination of at least two of the three intensities described below and regulated by Table [515-2-10.1]. Areas must be divided into neighborhoods by the introduction of a primary thoroughfare network, and then into blocks by the completion of the streets and open spaces. As the area is subdivided to generate blocks, parcels and individual building sites, the Regulating Plan assigns intensities that may be refined with approval by the Zoning Administrator according to [E.7]. of this Section. Regulating plans, consisting of one or more maps, must show the following:
1. District boundaries.
 2. Existing infrastructure including streets, parks and open space.
 3. Thoroughfare network according to subsection [E.3.].
 4. Park/open space area.
- C. **Permitted Uses.** See Appendix A: Table of Uses.

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

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

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

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

1. Block standards.

- a. Block length must be no more than 500 feet, unless mid-block passage is provided then additional length up to 800 feet maximum is permitted.
2. Block dimensions. Block length may be adjusted up to 20% with approval from the Zoning Administrator due to topography, existing development conditions, or if the block is at the perimeter of the TN-3 regulating plan. Block lengths up to 800 feet may be approved if a mid-block pedestrian passage is provided.
 - a. *Block Sizes:* Blocks shall be compact so that they are comfortably walkable and appropriate for their context.
 - b. Block sizes are flexible, but the perimeter should not exceed 1,800 linear feet. An average block perimeter of approximately 1,500 feet is preferred.
 - c. Exceptions may be made for natural elements such as wetlands, trees, topography, and cultural resources, to be incorporated into the site design

3. Thoroughfare standards.

- a. All thoroughfares must connect to other thoroughfares, forming a network.
- b. New thoroughfares must connect wherever possible to thoroughfares on adjacent sites. Cul-de-sacs may only be permitted by approval of the Zoning Administrator to accommodate specific site conditions.

4. Mid-block pedestrian passages.

- a. In areas with adequate vehicular capacity, pedestrian-only connections may be used mid-block and will count as a new edge in block perimeter calculations. Mid-block passage shall be a minimum of 12 feet wide.

5. Parking lot layout.

- a. In addition to the parking regulations of Section [515-4-12], parking lots in TN-3 must be laid out per Table [515-2-10.1] and must to have minimum visual impact on public rights-of-way.

6. Lot standards.

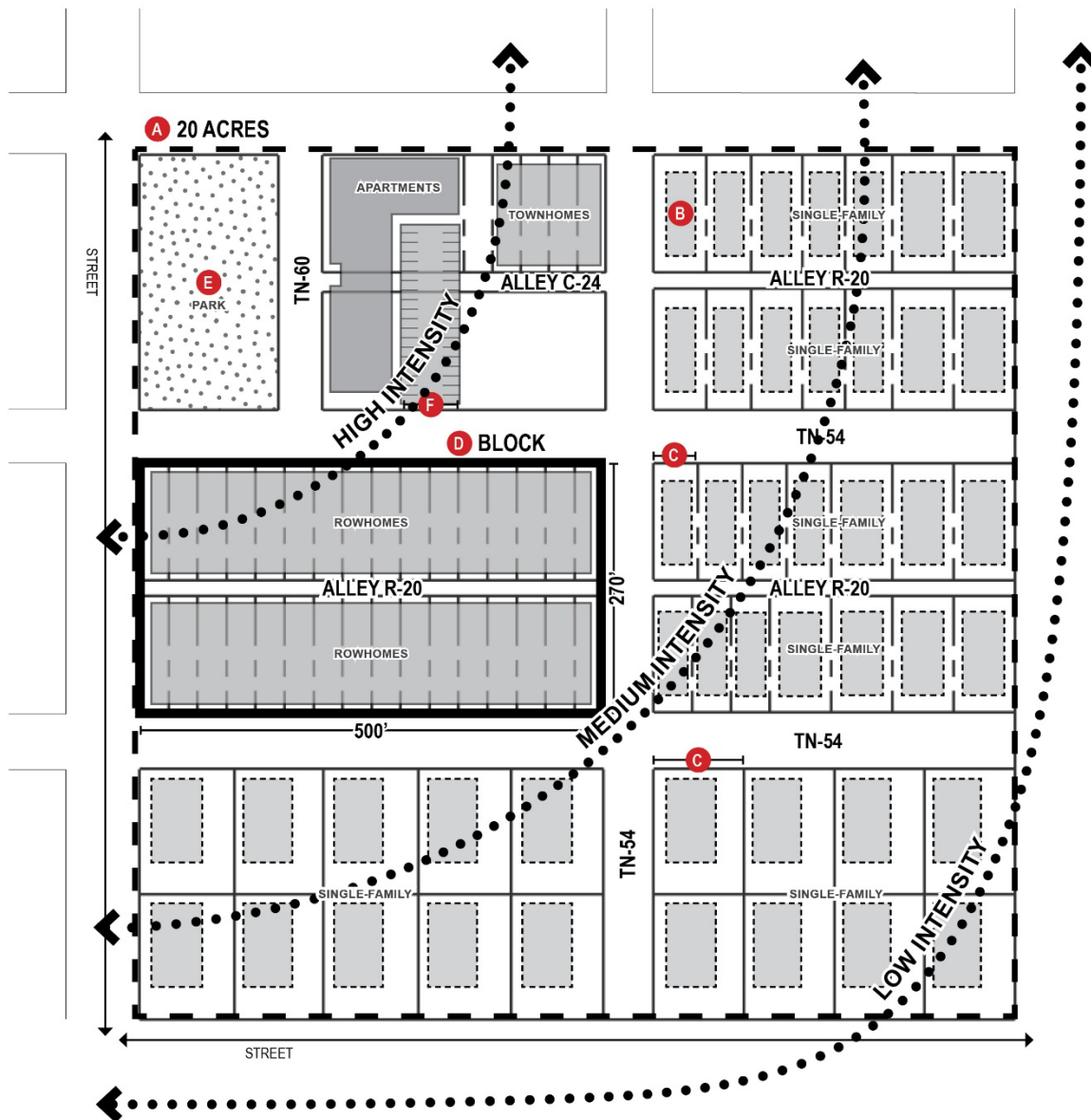
- a. Lots must have minimum and maximum widths according to Table [515-2-10.1]
- b. Each lot must have a primary frontage along a vehicular thoroughfare, except up to 20% of the parcels in a Regulating Plan may front a civic space or pedestrian passage.
- c. Where lots have multiple frontages, one frontage line must be designated as primary and any other frontage lines must be designated as secondary.

7. Intensities.

- a. TN-3 intensities are comprised of:
 - i. *Low intensity:* Consists of medium density residential areas, with a mix of uses, home occupations, and accessory buildings. It contains a wide range of building types — houses, courtyard housing, townhouses, duplexes, triplexes, small apartment buildings, and neighborhood commercial uses.
 - ii. *Medium intensity:* Consists of a mix of uses but is primarily medium to high density residential and neighborhood commercial uses.
 - iii. *High intensity:* Consists of commercial and higher density mixed-use buildings that accommodate retail, offices, institutions, and multi-family housing.

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



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

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

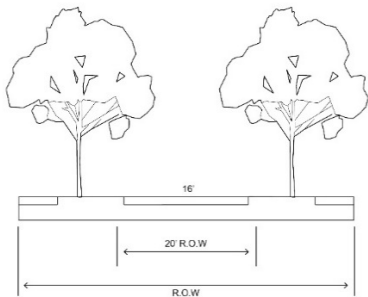


Figure 515-2-10.3. TN-3 Commercial Alley C-24

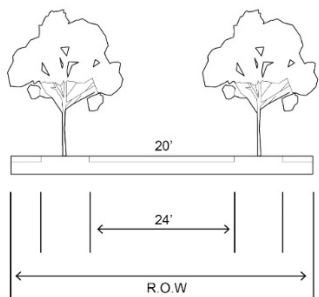


Figure 515-2-10.4. TN-3 Local Street TN-54 Parking on One Side on Two Sides.

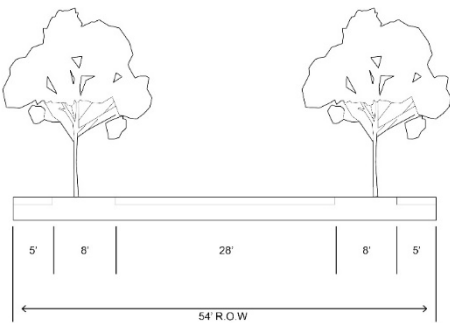


Figure 515-2-10.5. TN-3 Local Street TN-60 Parking

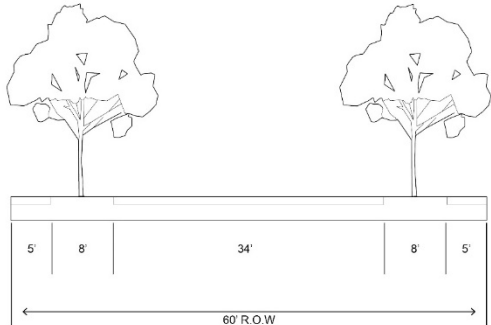
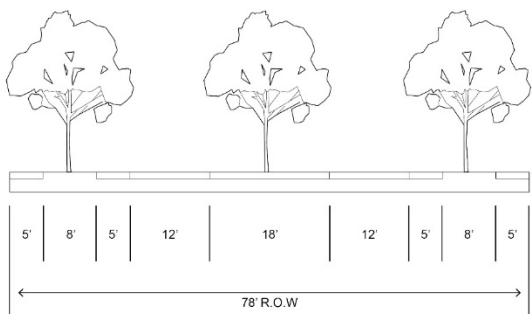


Figure 515-2-10.6. TN-3 Traditional Parkway TP-78 With Dedicated Bike Lane



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515-2-11 Town Center (TC) District

- A. **Purpose of the Town Center Zoning District.** The purpose of the TC Zoning District is to encourage the continuation of a viable, traditional downtown area by allowing retail, service, office and entertainment facilities and public and semi-public uses as well as multi-family dwelling units.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **TC Zoning District Dimensional Standards.** Table 515-2-11.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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

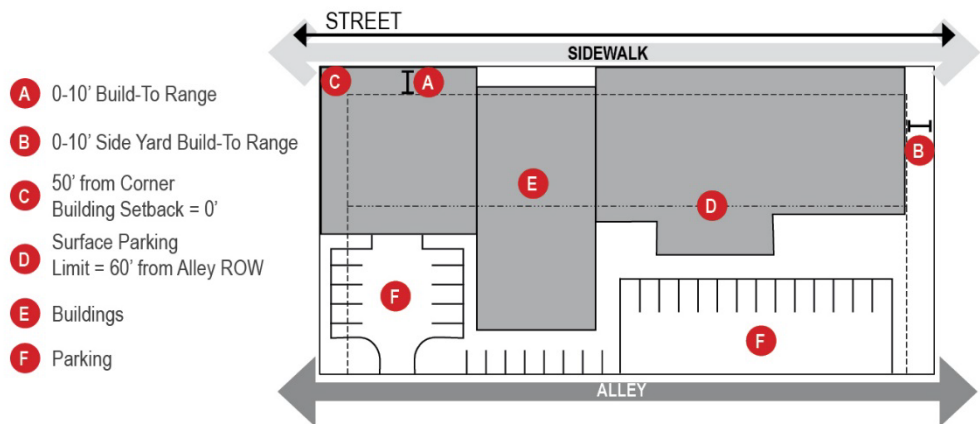


Figure 515-2-11.2. TC District Frontage Overlay

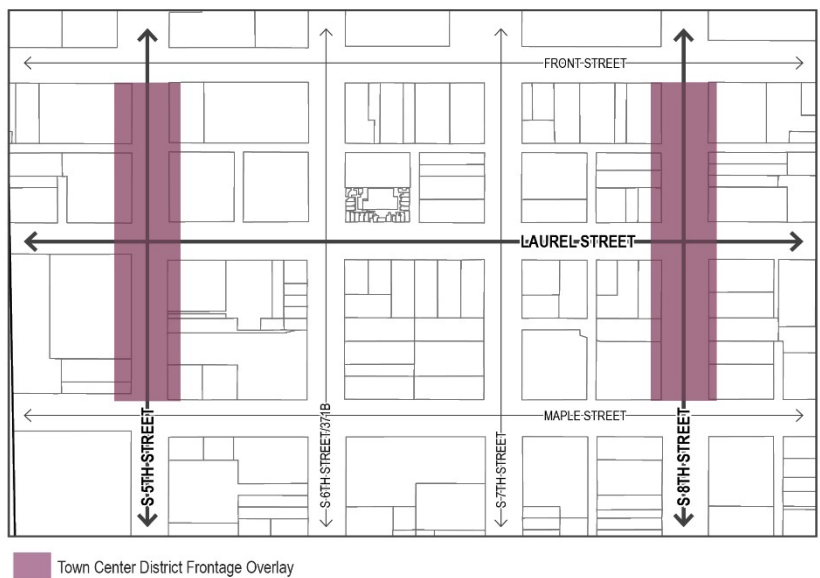
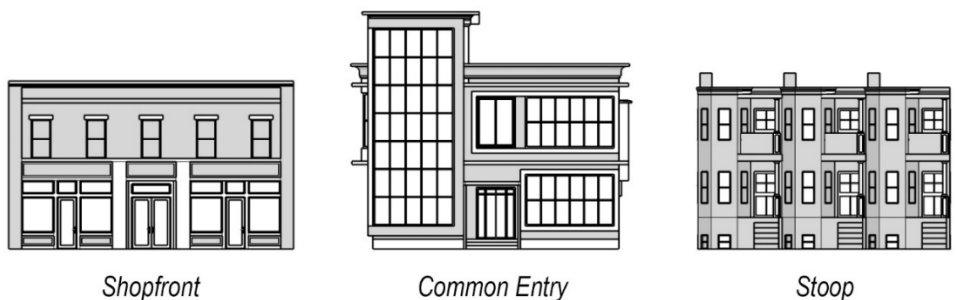


Figure 515-2-11.3. Example of TC Shopfront, Common Entry and Stoop Building Types



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

- A. **Purpose of Main Street Zoning District.** The purpose of the MS Zoning District is to encourage the continuation of a viable, traditional downtown area by allowing a mix of retail and commercial uses that physically contribute to and reinforce the well-formed, walkable development pattern.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **MS Zoning District Dimensional Standards.** Table 515-2-12.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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

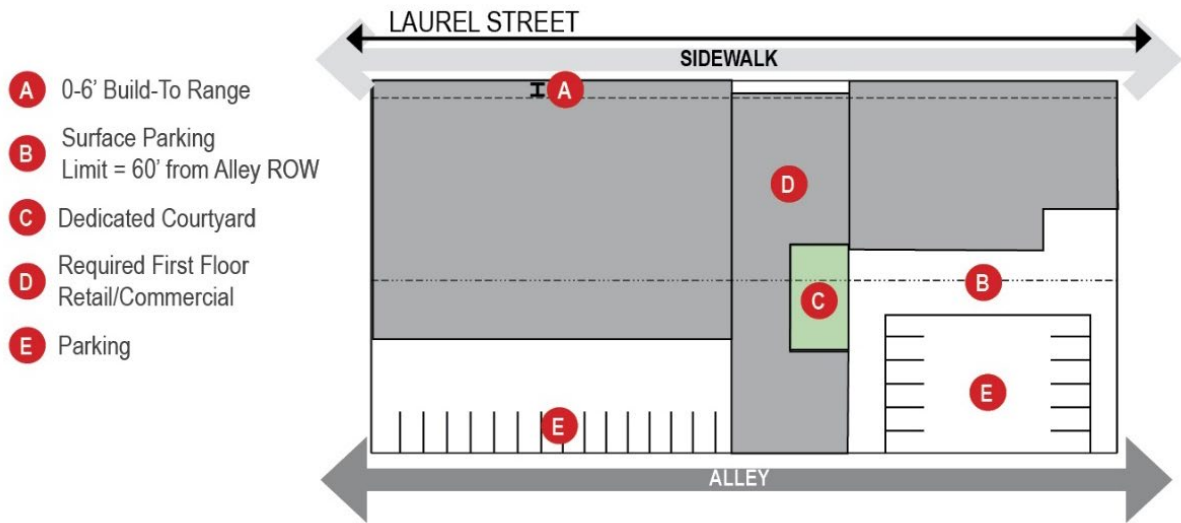
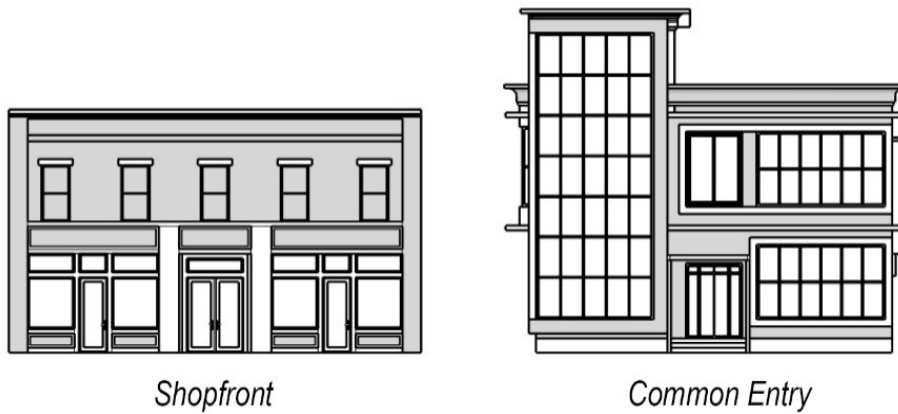


Figure 515-2-12.2. MS Example of Shopfront and Common Entry Building Types



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515-2-13 General Commercial (GC)

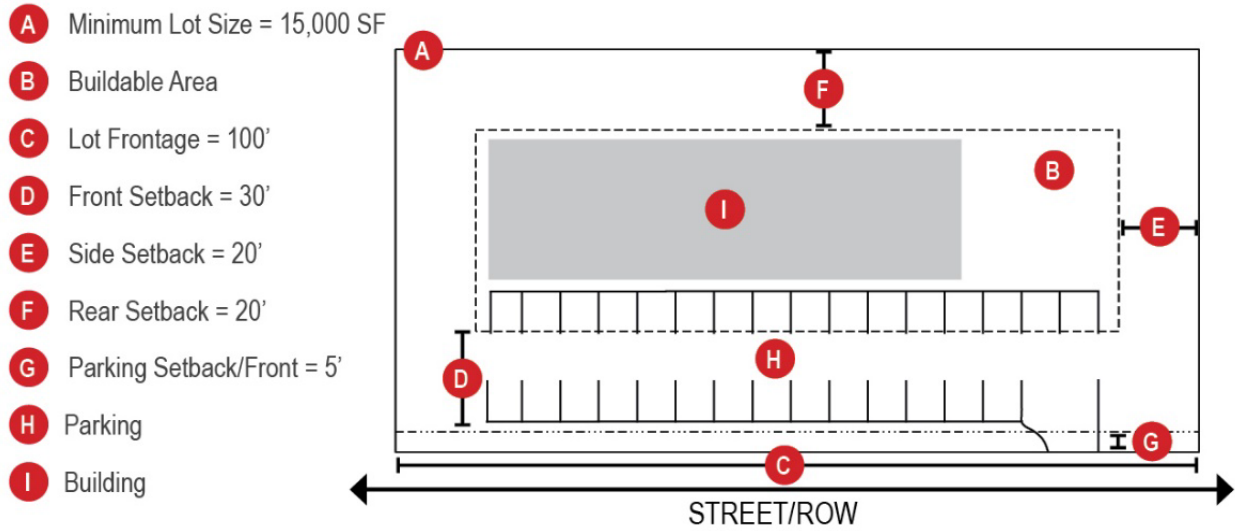
- A. **Purpose of General Commercial Zoning District.** The purpose of the GC District is to allow more intensive commercial uses that require the primary street network for access and circulation.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **GC Zoning District Dimensional Standards.** Table 515-2-13.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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515-2-14 Commercial Corridor District (CC)

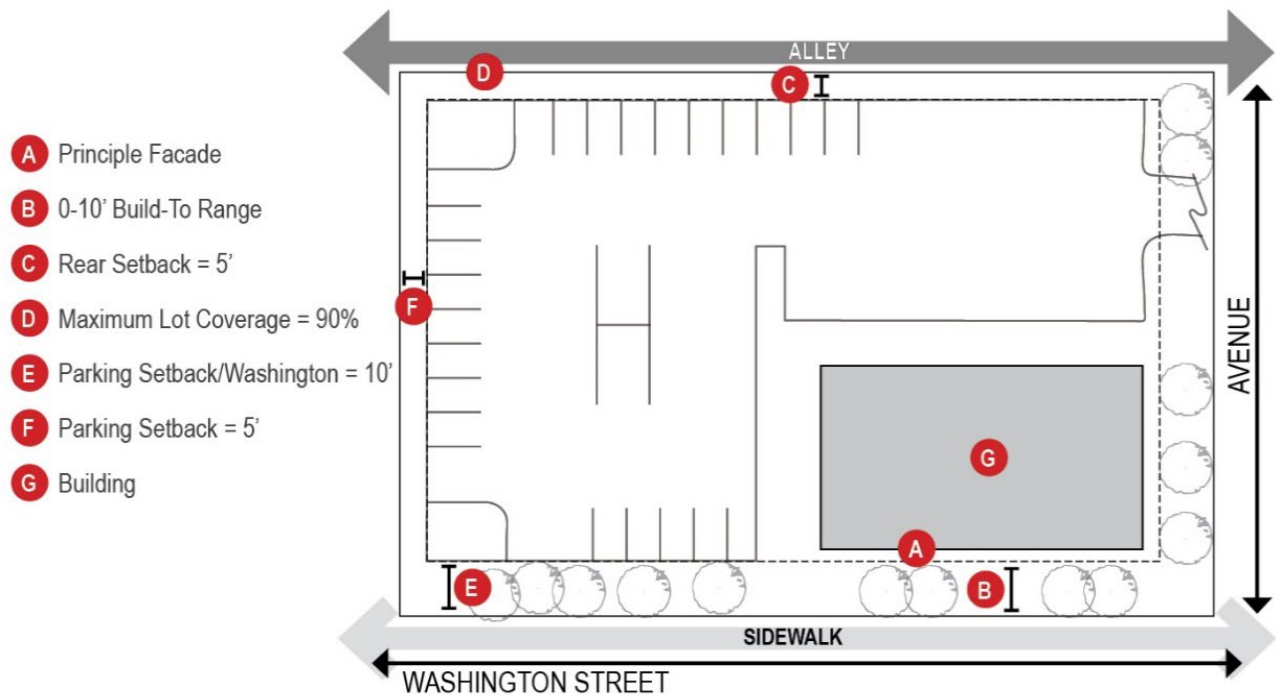
- A. **Purpose of Commercial Corridor Zoning District.** The purpose and intent of the CC District is to provide zoning regulation flexibility to permit development consistent with land use patterns along the Washington Street corridor from the river to 6th Avenue NE that support walkable development patterns and connections to the neighborhoods.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **Zoning District Dimensional Standards.** Table 515-2-14.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

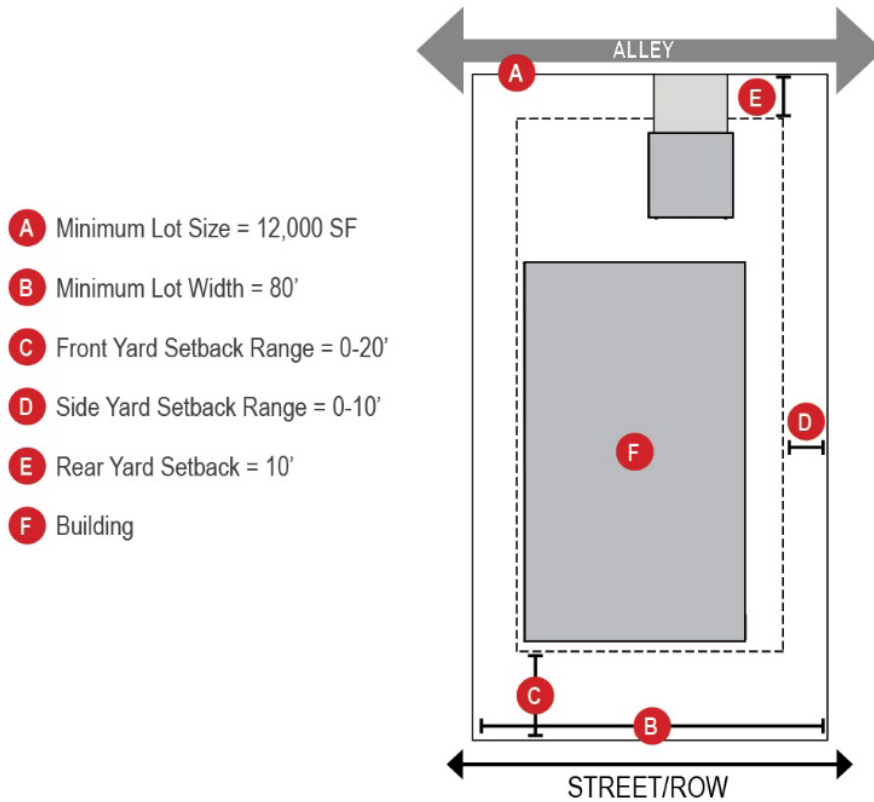
- A. **Purpose of Makers & Employment Zoning District.** The purpose and intent of the ME Zoning District is to provide for the establishment of small start-ups, incubator and craft/maker businesses that may be appropriate in smaller buildings or on smaller parcels. This District may also incorporate light industrial, general office and commercial uses.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **ME Zoning District Dimensional Standards.** Table 515-2-16.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

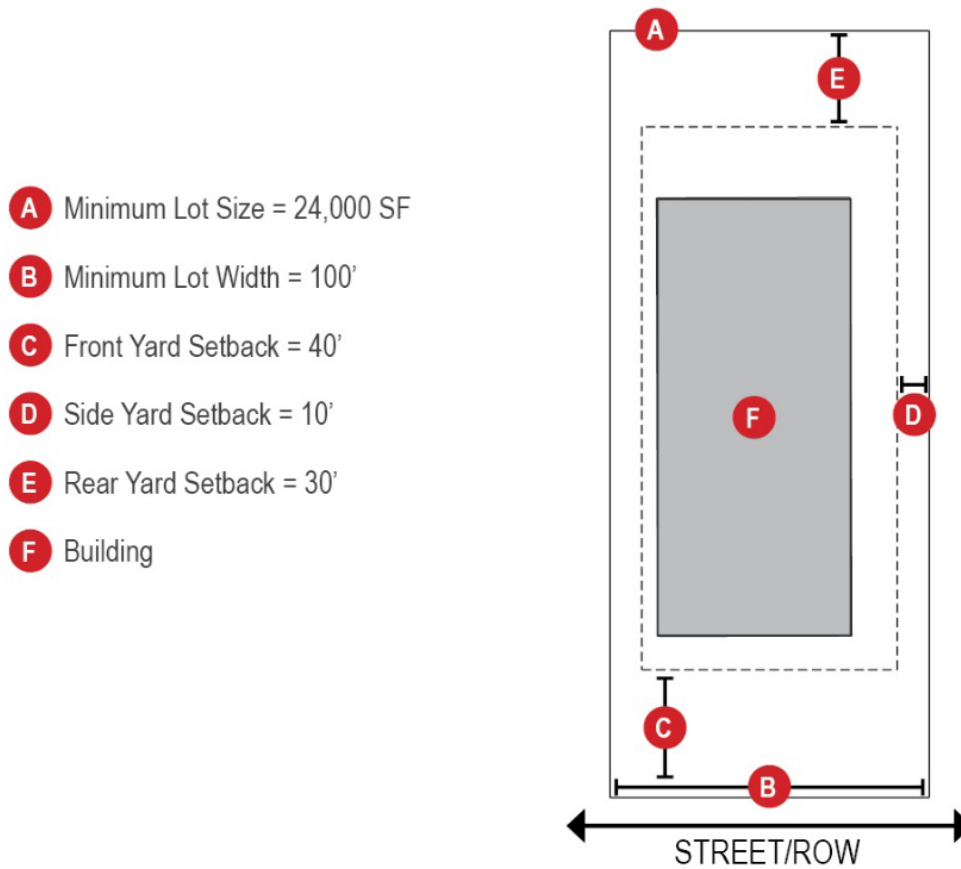
- A. **Purpose of General Industrial Zoning District.** The purpose of the GI Zoning District is to provide for the establishment of heavy industry and manufacturing development and use which because of the nature of the product or character of activity, requires isolation from residential and commercial uses.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **General Industrial Zoning District Dimensional Standards.** Table 515-2-16.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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



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

- A. **Purpose of Public Semi-Public Zoning District.** The PSP Zoning District is intended to identify lands used for community gathering spaces for purposes of education, recreation, congregation, worship, health, or similar. Lands zoned PSP contain 1.0 acres of land or provide a mix of community uses from a single facility or campus.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **PSP Zoning District Dimensional Standards.** Table 515-2-17.1 identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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515-2-18 Park District (P)

- A. **Purpose of Park Zoning District.** The P District is intended to identify lands that are publicly owned and are managed for active or passive recreational uses. Lands zoned Park are predominantly open space, but may include improvements such as warming housing, pavilions, parking lots, soccer fields, tennis/pickleball courts, etc.
- B. **Permitted Uses.** Passive and Active Recreational Uses.
- C. **Park Zoning District Dimensional Standards.** Table [515-2-18.1] identifies the Dimensional Standards for Principal and Accessory Structures.

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

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

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

- A. **Purpose of the Manufactured Home Overlay District.** The purpose of the MH-O District is to provide a separate district for manufactured housing parks, distinct from other residential areas.
- B. **Permitted Uses.**
1. One family detached manufactured dwellings.
 2. Public recreation areas and related accessory buildings and structures.
- C. **Accessory Uses.**
1. Home Businesses as regulated in Section [515-3-19] of this Ordinance.
 2. Storage of private recreational vehicles and equipment subject to Section [515-3-31] of this Ordinance.
 3. Common swimming pool, sport courts and similar recreational facilities for the use of residents of the park and their occasional guests.
 4. Tool houses, sheds and similar buildings for the storage of domestic supplies and equipment.

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

D. Design and Operational Standards.

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

E. Site Plan Requirements.

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

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- j. Description of the method of disposing of garbage and refuse.
- k. Detailed description of maintenance procedures and grounds supervision.
- l. Details as to whether all of the area will be developed a portion at a time.

F. Design Standards.

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

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- a. Each manufactured housing site shall have off-street parking space for two (2) automobiles. All parking stalls shall be completely on the home lot they serve.
- b. Each manufactured housing park shall maintain additional hard surfaced off-street parking lot(s) for guests of occupants in the amount of one (1) space for each three (3) home sites.
- c. Access drives off streets and roads to all parking spaces and unit sites shall be hard surfaced according to specifications established by the City.

10. Utilities.

- a. All manufactured housing units shall be connected to a public water and sanitary sewer system or a private water and sewer system approved by the State Department of Health and the City.
- b. All installations for disposal of surface storm water must be approved by the City.
- c. All utility connections shall be as approved by the City.
- d. The source of fuel for cooking, heating or other purposes at each manufactured housing site shall be as approved by the City.
- e. All utilities shall be underground. There shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.
- f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile home equipment.
- g. The park owner shall pay any required sewer connection fees to the City.
- h. The park owner shall pay inspection and testing fees for utility service to the City.
- i. Facilities for fire protection shall be installed as required by the City.

11. Internal Roads and Streets.

- a. Roads and streets shall be bituminous or concrete surfaced as approved by the City.
- b. All roads and streets shall have a concrete (mountable, roll type) curb and gutter.
- c. All streets shall be developed with a roadbed of not less than 28 feet in width. If parking is permitted on the street then the road bed shall be at least 36 feet in width. To qualify for the lesser sized street, adequate additional off-street parking, as determined by the City, shall be provided and demonstrated.
- d. The manufactured home park shall have a street lighting plan approved by the City.

12. Recreation.

- a. All manufactured housing parks shall have at least 15 percent of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.) developed and maintained at the owner/operator's expense.
- b. In lieu of land dedication for public park purposes, a cash contribution as established by the City's Subdivision Ordinance, as may be amended, shall be paid to the City.

13. Landscaping.

- a. Each site shall be properly landscaped with trees, hedges, grass, fences, windbreaks and the like.
- b. A compact hedge, redwood fence or landscaped area shall be installed around each manufactured home park and be maintained in as new condition at all times as approved.
- c. All areas shall be landscaped in accordance with the landscaping plan approved by the Council.

14. Lighting.

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- a. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, storm shelters, and the like.
- b. The manufactured housing park grounds shall be lighted as approved by the City from sunset to sunrise.

15. Storage.

- a. Enclosed storage lockers (when provided) shall be located whether adjacent to the manufactured home in a manufactured housing park or at such other place in the park as to be convenient to the unit for which it is provided, as approved by the City.
- b. Storage of larger items, such as boats, boat trailers, recreation vehicles, etc., shall be accommodated in a separate secured and screened area of the park, as approved by the City. No parking of such vehicles or equipment shall be permitted on the housing site.

G. Registration.

1. It shall be the duty of the operator of the manufactured housing park to keep a record of all homeowners and occupants located within the park. The register shall contain the following information:
 - a. The name and address of each unit occupant.
 - b. The name and address of the owner of each unit.
 - c. The make, model, year, and dimensions of each unit.
 - d. The State, territory or county issuing each unit's license.
 - e. The date of arrival and departure of each unit.
 - f. The number and type of motor vehicles of residents in the park.
 - g. The Park Operator shall keep the register available for inspection at all times by authorized City, State, and county officials, public health officials, and other public offices whose duty necessitates acquisition of the information contained in the register. The register shall not be destroyed until after a period of three (3) years following the date of departure of the registrant from the park.

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

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

- A. Purpose of the Planned Unit Development Overlay District.** The purpose and intent of the PUD Overlay District is to provide for the integration and coordination of land parcels as well as the combination of various types of residential, commercial and industrial uses.
- B. Application.** All permitted, permitted accessory, or conditional uses identified in Appendix A: Table of Uses shall be treated as potentially permitted uses within a Planned Unit Development Overlay District (PUD).
- C. Procedure.** Whether requested as a rezoning or initially established by City action, a Planned Unit Development (PUD) Overlay District shall be established and governed subject to the procedures, conditions, standards, and amendment requirements as outlined in Section [515-5-7] of this Ordinance.

D. Established PUD Overlay Districts

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

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- a. The standards and uses contained within the Town Center (TC) Base Zoning District shall govern the NPC-PUD district, with the modifications as noted in Table 515-2-20.1.
- b. Development Standards. All approved Final PUD Plans shall govern the development of the property and shall be kept on file with the City Zoning Administrator.

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

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

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ALLOWED USES.

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

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

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

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

- A. **Minimum Standards Established.** The following Use Specific Regulations are established as minimum requirements. Any use identified on Appendix A: Table of Uses that requires an Administrative Permit, Interim Use Permit or Conditional Use Permit is subject to additional reasonable conditions as established during the applicable permitting process.
- B. **Compliance with General Building Development and Design Standards.** All uses, whether permitted or conditionally permitted, that change or alter a site must comply with the standards established by Section [515-4}, including the following specific references:
 - 1. Section [515-4-8] Outdoor Lighting.
 - 2. Section [515-4-9] Landscaping, Green Space and Screening Requirements.
 - 3. Section [515-4-10] General Landscaping Improvement Standards.
 - 4. Section [515-4-11] Fence Standards.
 - 5. Section [515-4-12] Off-street Parking.
- C. **Additional Standards for Uses abutting RL-1, RL-2, CN-1, CN-2, and TN-1 Zoning Districts.** The uses identified on the Table of Uses have been identified as reasonably permitted within a Base Zoning District.

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

1. Any non-residential use in a commercial or industrial zoning district that abuts a residential use or Residential Zoning District shall screen any abutting property line to comply with the standards established in 515-4-9 and 515-4-10. For purposes of this Section the following Residential and Non-Residential Zoning Districts are defined as:
 - a. *Residential Zoning Districts:* RL-1, RL-2, GL, CN-1, CN-2, and TN-1.
 - b. *Non-residential Zoning Districts:* CC, GC, TN-2, TC, MS, PSP, ME, and GI.

515-3-4 Adult Establishments.

A. Purpose and Intent.

1. **Findings of the City Council.** Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, MN; Indianapolis, IN; Alexandria, MN; Rochester, MN; Phoenix, AZ; Los Angeles, CA; Seattle, WA; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of Brainerd makes the following findings regarding the need to regulate adult establishments. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff. Based on these studies and findings, the City Council concludes:
 - a. Adult establishments have adverse secondary impacts of the types set forth above.
 - b. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
 - c. It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the City.
 - d. Minnesota State Statutes, Section 462.357, allows the City to adopt regulations to promote the public health, safety, morals, and general welfare.
 - e. The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.
 - f. Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing City crime prevention programs and law enforcement services.
 - g. Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
 - h. Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
 - i. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.
2. It is the purpose of this Ordinance to regulate adult establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

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- a. Prevent additional criminal activity within the City.
 - b. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood.
 - c. To locate adult establishments away from residential areas, schools, churches, libraries, parks, and playgrounds.
3. Prevent concentration of adult establishments within certain areas of the City.
- a. *Provisions.* The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent or effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

B. Applications of this Ordinance.

1. In General.
 - a. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.
 - b. No adult establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Brainerd, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.
2. Existing Adult Establishments. Within twelve (12) months of the effective date of this Ordinance, any existing adult establishment shall be in compliance with all requirements of this Ordinance. Existing adult establishments are exempt from the location requirements in Section [3].
3. Location. Adult establishments are permitted uses in the General Industrial (GI) District, subject to the following requirements:
 - a. An adult use shall not be allowed within six hundred (600) feet measured in a straight line from the building or edge of leased building space to another existing adult use.
 - b. An adult use shall not be located within five hundred (500) feet measured in a straight line from the building or edge of a leased building space to the property line of any residentially zoned property.
 - c. An adult use shall not be located within one thousand (1,000) feet measured in a straight line from the building or edge of leased building space to the property line of any existing school, place of worship, library, day care, park or playground.
 - d. An adult use shall not be located within five hundred (500) feet measured in a straight line from the building or edge of a leased building space to the property line of any City owned park and recreational property.
4. Hours of Operation. No adult establishment shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m., weekdays and Saturdays, nor at any time on Sundays or national holidays.
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- a. Off-site Viewing. Any business operating as an adult establishment shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.
- b. Entrances. All entrances to the business, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way.
6. Layout. The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.
7. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
8. Signs. Signs for adult establishments shall comply with the City's Ordinance for signs addressed in the Ordinance Section [515-3-35]. Signs for adult establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
9. Access by Minors. No minor shall be permitted on the licensed premises. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.
10. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
 - a. No dancer, live entertainer or performer shall be under eighteen (18) years old.
 - b. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two (2) feet from the level of the floor.
 - c. No dancer or performer shall perform any dance or live entertainment closer than ten (10) feet to any patron.
 - d. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
 - e. No patron shall pay or give any gratuity to any dancer or performer.
 - f. No dancer or performer shall solicit or receive any pay or gratuity from any patron.

C. Licenses.

1. Licenses Required. All adult establishments, including any adult establishment operating at the time this Ordinance becomes effective, shall apply for and obtain a license from the City of Brainerd. A person or entity is in violation of this Ordinance if the person or entity operates an adult establishment without a valid license, issued by the City.
2. Applications. An application for a license must be made on a form provided by the City and must include:
 - a. If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five (5) percent of the issued and outstanding stock of the corporation.
 - b. The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's.
 - c. The address and legal description of the premises where the adult establishment is to be located.

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- d. A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or adult business by the applicant, operator, or manager, and whether the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five (5) percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community.
 - e. The activities and types of business to be conducted.
 - f. The hours of operation.
 - g. The provisions made to restrict access by minors.
 - h. A building plan of the premises detailing all internal operations and activities.
 - i. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
 - j. A statement that the applicant is qualified according to the provisions of this Ordinance and that the premises have been or will be inspected and found to be in compliance with the appropriate State, County, and local law and codes by the health official, fire marshal, and building inspector.
 - k. The names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two (2) persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
 - l. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.
 - m. Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.
3. Disqualifications. The City will issue a license to an applicant within thirty (30) days of the application unless one or more of the following conditions exist:

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- a. The applicant is under 21.
 - b. The applicant failed to supply all of the information requested on the license application.
 - c. The applicant gives false, fraudulent, or untruthful information on the license application.
 - d. The applicant has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments.
 - e. The adult establishment is not in full compliance with this Code and all provisions of State and Federal law.
 - f. The applicant has not paid the required license and investigation fees.
 - g. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment or such license has been suspended or revoked, within the preceding twelve (12) months.
 - h. The applicant is not the proprietor of the establishment for which the license is issued.
 - i. The adult establishment premises holds an intoxicating liquor, beer or wine license.
4. Re-qualification. An applicant may qualify for an adult establishment license:
- a. After one (1) year has elapsed in the case of a previous license revocation.
 - b. After two (2) years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor offense.
 - c. After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense.
 - d. After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two (2) or more misdemeanor offenses of combination of misdemeanor offense occurring within any twenty-four (24) month period.
5. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult establishment so that it may be easily read at any time.
6. Fees.
- a. The license fee for adult establishments is as follow:
 - i. The initial license fee shall be established by amendment to Section [1010] of the Brainerd City Code.
 - ii. An application for a license must be submitted to the City Administrator and accompanied by payment of the required license fee. Upon rejection of an application for a license, the City will refund the license fee.
7. Licenses will expire on December 31 in each year. Each license will be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any un-expired fraction of a month will be counted as one month.
8. No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the City Council within thirty (30) days from the

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

- a. Destruction or damage of the licensed premises by fire or other catastrophe.
 - b. The licensee's illness, if such illness renders the licensee unable to continue operating the licensed adult establishment.
 - c. The licensee's death.
 - d. A change in the legal status making it unlawful for the licensed business to continue.
9. An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City Council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the City Administrator in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.
10. The one-time non-refundable background investigative fee for an adult establishment license is one hundred dollars (\$100.00) and shall be charged for each person identified on the application as an owner, operation, or manager of the business and for each successor, owner, operator or manager.

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

1. The City will conduct and complete an investigation within thirty (30) days after the City Administrator receives a complete application and all license and investigative fees.
2. If the application is for a renewal, the applicant will be allowed to continue business until the City Council has determined whether the applicant meets the criteria of this Ordinance for a renewal license.
3. If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the City Council within thirty (30) days after the investigation is completed. If the City Council fails to act within thirty (30) days after the investigation is completed, the application will be deemed approved.
4. A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five (5) percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult establishments existing at the time of the adoption of this Section must obtain an annual license.

E. Inspection.

1. Access. An applicant or licensee shall permit health officials, representatives of the Police Department, Fire Department, Zoning Department, and Building Inspector, to inspect the premises of an adult establishment for the purpose of ensuring compliance with the law at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.
2. Refusal to Permit Inspections. A person who operates an adult establishment or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the Police Department, Fire Department, and Building Inspector at any time it is occupied or open for business. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license as provided in [F, G and H] of this Subsection.

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3. Exceptions. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least twelve (12) hours.
4. Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one (1) year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request.

F. Expiration and Renewal.

1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in preceding subsections [C and D]. Application for renewal accompanied by a fifty dollars (\$50.00) renewal investigation fee must be made at least sixty (60) days before the expiration date.
2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

G. Suspension.

1. Causes of Suspension. The City may suspend a license for a period not to exceed thirty (30) days if it determines that the licensee or an employee of a licensee has:
 - a. Violated or is not in compliance with any provision of this Ordinance.
 - b. Engaged in the sale or use of alcoholic beverages while on the adult establishment premises other than at an adult hotel or motel.
 - c. Refused to allow an inspection of the adult establishment as authorized by this Ordinance.
 - d. Knowingly permitted gambling by any person on the adult establishment premises.
 - e. Demonstrated inability to operate or manage an adult establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
2. Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

H. Revocation.

1. Suspended Licenses. The City may revoke a license if a cause of suspension in Subsection [G] occurs and the license has been suspended at least once before within the preceding twelve (12) months.
2. Causes of Revocation. The City may revoke a license if it determines that:
 - a. A licensee gave false or misleading information in the material submitted to the City during the application process.
 - b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.
 - c. A licensee or an employee has knowingly allowed prostitution on the premises.

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- d. A licensee or an employee knowingly operated the adult establishment during a period of time when the licensee's license was suspended.
 - e. A licensee has been convicted of an offense listed in Section [C.3], for which the time period required in Section [C.4], has not elapsed.
 - f. On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section [C.3] for which a conviction has been obtained, and the person or persons were employees of the adult establishment at the time the offenses were committed.
 - g. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- I. **Appeals.** The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- J. **Exceptions.** Section [H.2.g.], does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- K. **Granting a License After Revocation.** When the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult establishment license for one (1) year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license is revoked under Section [H], an applicant may not be granted another license until the appropriate number of years required under this Section have elapsed.
- L. **Notice.** A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.
- M. **Procedures.** Issuances, suspensions, revocations and non-renewals of adult establishment licenses are governed by the following provisions:
- 1. In the event that the City Council proposes not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The Council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within thirty (30) days of the date of the notice. The City Council must determine whether to suspend or revoke a license within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner. The Council must notify the licensee of its decision within that period.
 - 2. If the Council determines to suspend or revoke a license, the suspension or revocation is not effective until fifteen (15) days after notification of the decision to the licensee. If, within that fifteen (15) days, the licensee files and serves an action in State or Federal court challenging the Council's action, the suspension or revocation is stayed until the conclusion of such action.
 - 3. If the City Council determines not to renew a license, the licensee may continue its business for fifteen (15) days after receiving notice of such non renewal. If the licensee files and serves an action in State or Federal court within fifteen (15) days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.

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

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

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

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

515-3-6 Auto Dealership

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

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

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

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

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

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

515-3-8 Auto Wrecking or Salvage Yard

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

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

515-3-9 Bed and Breakfasts

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

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

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

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

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

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

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

- A. **Brew Pub Off-Sale.** A brewer with an off-sale malt liquor license subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. No odors from the brewery facility shall be perceptible beyond the property line. If such odors occur, the brewery facility operator shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- B. **Brew Pub On-Sale.** A brewer with an on-sale malt liquor license subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. The operation must comply with the requirements of [515-3-26] for Outdoor Dining.
 3. No odors from the brewery shall be perceptible beyond the property line. If such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
 4. On-site sale of wine or spirits is permitted in accord with Minnesota Statutes and Brainerd City Code XII.

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- C. **Brewery with Taproom On-Sale.** A brewer with an on-sale brewery taproom license for the “On-Sale” of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. The operation must comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.
 3. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- D. **Brewery with Taproom Off-Sale.** A brewer with an off-sale brewery taproom license for the “off-sale” of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. A taproom for malt liquor “off-sale” produced on-site shall require an “on-sale” taproom room license from the City of Brainerd, according to the City Code Section XII.
 3. Comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.
 4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- E. **Microdistilleries and Cocktail Rooms.** Subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. A cocktail room shall require an “on-sale” taproom room license from the City of Brainerd, according to the City Code Section XII.
 3. Comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.

515-3-11 Bulk Liquid Storage

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

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

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

- A. Any coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing use must comply with the following minimum standards:
1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
 2. A drainage system subject to the approval of the City Engineer shall be installed.
 3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
 4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
 5. Provisions are made to control and minimize noise, air and water pollution.

515-3-13 Commercial Car Wash

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

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515-3-14 Commercial Day Care Facilities

- A. **Purpose and Intent.** The regulation of commercial day care facilities in this Ordinance is to establish standards and procedures by which day care facilities can be conducted within the City without jeopardizing the health, safety and general welfare of the day care participants and/or the surrounding neighborhood. This Section establishes the City's minimum requirements for the establishment of a day care facility which is not defined as a permitted use by State Statute or which are operated in places other than single family homes. Day care facilities defined as permitted uses by State Statutes operate in a single-family dwelling as an accessory use.
- B. **Application.** Commercial day care facilities must obtain the required permit as identified on the Appendix A: Table of Uses. In addition to the City regulation, all day care facility operations shall comply with the minimum requirements of the Minnesota Department of Health and Human Services regulations, as may be amended.
- C. **Sketch Plan.** All applications for a day care facility shall be accompanied by a Sketch Plan as described in Section [515-5-9] of this Ordinance.
- D. **General Provisions.** Day care facilities shall be allowed as a principal use, provided that the day care facilities meet all the applicable provisions of this Section.
1. **Lot Requirements and Setbacks.** The proposed site for a day care facility must have a minimum lot area as required by the applicable Base Zoning District in which it is located and as determined by the Minnesota Department of Health and Human Services. The City Council may increase the required lot area in those cases where such an increase is considered necessary to ensure compatibility of activities and maintain the public health, safety and general welfare. The day care facility must meet the minimum setback requirements of the respective Base Zoning District. The City Council may increase setback requirements if considered necessary to ensure compatibility.
 2. **Sewer and Water.** All day care facilities shall have access to municipal sewer and water or have adequate private sewer and water to protect the health and safety of all persons who occupy the facility.
 3. **Screening.** A day care facility shall provide screening along any shared property boundaries, regardless of adjacent use.
 4. **Parking.** There shall be off-street parking located separately from any outdoor play area and must comply with all applicable standards.
 5. **Loading.** Off-street loading spaces must be provided.
 6. **Signage.** All signing and informational or visual communication devices shall be in compliance with the provisions of Section [515-3-35] of this Ordinance.
 7. **Compliance with State Requirements.** The building and operation shall be in full compliance with State of Minnesota, Department of Health and Human Services regulations and be licensed accordingly.
- E. **Non-Conforming Uses.** Existing day care facilities lawfully existing on the effective date of this Ordinance may continue as non-conforming uses. Any existing day care facility that is discontinued for a period of more than one (1) year, or is in violation of the provisions of the Ordinance, under which it was initially established, shall be brought into conformity with the provisions of this Section.
- F. **Inspection.** At any and all reasonable hours, with or without notice, the City hereby reserves the right upon issuing any day care facility a Conditional Use Permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Section, Ordinance, or any conditions additionally imposed.

515-3-15 Commercial Greenhouse

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

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

515-3-16 Commercial Riding Stables

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

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

515-3-17 Drive-through Business

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

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

515-3-18 Essential Services

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

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

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

C. Installation Requirements.

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

D. Application.

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

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- c. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon initial approved plans shall require the appropriate permit amendment.
2. Lots reserved specifically for essential services, whether of record, or newly subdivided, may be less than the specified dimensions of the applicable Zoning District under the following stipulations:
 - a. The lot is of sufficient dimensions to allow the setbacks from all property lines to be equal to height of the various structures on the parcel or the setback requirements of the district, whichever are greater. Lesser structure setbacks may be allowed by the City Council upon demonstration that the facility's design is such that the collapse of said structure will not endanger surrounding property. In no case shall the setbacks be reduced to less than that required by the individual districts.
 - b. Applications for subdivision of new lots under this provision are accompanied by the appropriate permit applications.
 - c. A restrictive covenant, removable by the City, is recorded against a parcel which prohibits any sale, transfer, or use other than for an essential service as defined in the City ordinances so long as the parcel is substandard in size, according to the applicable Zoning Districts.
 - d. In the event of abandonment of the essential service for any reason on the substandard lot, all equipment, structures, cables, buildings or any other improvements to the property shall be removed from said property within a period of three (3) months. At the end of three (3) months, if the above listed items have not been completely removed, the City may enter said property and remove any of the above listed items and improvements and charge said costs to the owner(s) of the property, and any such unpaid charge shall be a lien against the affected property, including any and all administrative, legal and other fees expended by the City in enforcing this provision.
 - e. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon approved initial plans shall require a permit amendment.

515-3-19 Home Businesses

- A. **Purpose and Intent.** The purpose of this Section is to provide specific standards for Home Businesses not meeting the criteria as established in Subsection [D]. The intent of the standards and regulations is to minimize potential adverse impacts to the surrounding neighborhood.
- B. **Application.** Subject to Section [515-5-10], Non-Conforming Lots, Buildings, Structures and Uses, and other applicable sections of this Ordinance, all occupations and businesses conducted in a home or in a residential accessory building shall comply with the provisions of this Section. This Section shall not be construed, however, to apply to home businesses and businesses related to farming operations.
- C. **Procedures.**
 1. Home Business – Permitted. Any Home Business meeting the criteria established in Subsection [D] shall be permitted, and is not subject to any special permits.
 2. Home Business – Administrative Permit. Any proposed Home Business not meeting the criteria established in Subsection [D] shall be required to obtain an Administrative Permit as shown on the Appendix A: Table of Uses.
- D. **Requirements-General Provisions.**
 1. Criteria for Permitted Home Businesses. The following criteria is established for permitted Home Businesses. All criteria must be met, or an Administrative Permit is required.
 - a. The occupation or profession must be lawful and conducted within the Principal Dwelling Unit.
 - i. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barbershops, beauty shops, or similar uses. Only articles made or services originating on the premises may be sold on the premises.

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- ii. The owner, if different than the Home Business operator, must provide written approval of the operations of the business.
 - b. Other than signs permitted in residential districts, evidence of the occupation shall not be visible from any public right-of-way. Evidence includes, but is not limited to, outdoor storage of materials, equipment or merchandise.
 - c. No traffic shall be generated by such Home Business in greater volume than would normally be expected to a residence in a residential neighborhood, and the driveway or alley access shall be designed accordingly. On-site parking area shall not exceed two (2) stalls and shall not be located in any required yard setback area. Any off-street parking area must be screened from any adjacent residential use.
 - d. No equipment, activity, or process shall be used in such Home Occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of the lot; and such use must not endanger the health and safety of the occupants or neighborhood residents.
 - e. No accessory building shall be used for a Home Business.
 - f. Entrance to the Home Business shall be gained from within the principal building. Not more than twenty-five (25) percent of the gross floor area of the residence shall be used for this purpose.
 - g. A person having a Home Business shall provide proof of meeting the above requirements if complaints are received by the City Council.
2. Home Business not meeting any of the criteria established in (1).
- a. Any proposed Home Business not meeting the criteria established in 1., must obtain an Administrative Permit, which may include reasonable conditions to protect the health and safety of the surrounding neighborhood.
 - b. The proposed Home Business must be identified as a permitted home business type in item D.1.a.i.
 - c. The proposed Home Business must be accessory to the principal residential use, and the owner of the business must be an occupant of the subject property.
 - d. Any lawful occupation or profession engaged within a dwelling unit by the property owner and/or occupant which involves any of the following:
 - i. The storage of stock-in-trade incidental to the performance of the service.
 - ii. Repair or manufacturing which requires equipment other than that customarily found in a home.
 - iii. The employment on the premises at any one time, of not more than one (1) person who is a non-resident of the premises.
 - iv. The need for more than two (2) parking spaces, but not exceeding four (4) parking spaces, in addition to spaces required for the persons residing on the premises.
 - e. Only articles made or services provided on the premises may be sold on the premises.
 - f. An attached garage and/or an accessory building may be used..
 - g. The Home Business may not include over-the-counter sales of merchandise produced off the premises.
 - h. All such occupants shall obtain written approval of the property owner and provide evidence of such approval at the time of an application for an Administrative Permit.
 - i. The Administrative Permit may include conditions that require the expiration of the Permit upon the sale of the property, change in tenancy of the property, or an event or date as established by the Zoning Administrator.

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

F. **Revocations.**

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

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

- A. Any hotel, motel, conference/convention/reception facility must comply with the following minimum standards:
1. The hospitality business shall maintain daily written records reflecting the renting, letting, or other provisions of any of its rooms including check in and check out dates of each person over 18 years of age that rents, lets or is otherwise provided a room or occupies a room on an overnight basis. Such records shall be made available to the City of Brainerd upon request.
- B. Any extended stay hotels and motels must comply with the following requirements:
1. The City of Brainerd will be notified prior to becoming an extended stay facility.
 2. Stays are limited to 90 consecutive days.
 3. All guest rooms which have facilities for both storage and food preparation less than 300 square feet of floor area are limited to a maximum of two (2) persons per room; however, for all such guest rooms greater than 300 square feet, one additional person shall be allowed per each 75 square feet of floor area up to a maximum of four (4) persons.
 4. Kitchen facilities including a stove and oven are provided.

515-3-21 Mini Self-storage

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

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

515-3-22 Mining and Extraction

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

B. **Administration.**

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

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

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

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- ii. Location of sites to be mined showing depth of proposed excavation.
- iii. Location of tailings deposits showing maximum height of deposits.
- iv. Location of stationary machinery to be used in the mining operation.
- v. Location of storage of mined materials, showing maximum height of storage deposits.
- vi. Location of vehicle parking, access roads and local routes to truck routes.
- vii. Location of storage of explosives erosion and sediment control structures.
- c. *Survey C - End use plan to include:*
 - i. Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
 - ii. Location and species of vegetation to be replanted reclamation staging plan.
 - iii. Demonstration of future street access as provided for by the Comprehensive Plan.
 - iv. Demonstration of future utility access and extension locations.
 - v. Description of future land use plan consistent with the Comprehensive Plan and site's ability to accommodate such future uses.
- 4. A soil erosion and sediment control plan.
- 5. A plan for dust and noise control.
- 6. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation, location and approximate acreage of each stage, and time schedule for reclamation.
- 7. Any other information requested by the Planning Commission or City Council.

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

- 1. General Provisions. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to minimize seeding on adjacent property. All equipment used for mining and extraction operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises, dust and vibrations adversely affecting the surrounding property.
- 2. Water Resources. The mining operation shall be conducted in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the mining operation.
- 3. Safety Fencing. Safety fencing may be required around all or portions of the mining operation at the discretion of the City Council.
- 4. Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety as determined by the City.
- 5. Screening Barrier. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties. A screening barrier may also be required between the mining site and any public road located within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees.
- 6. Setback. Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than one hundred (100) feet to any residential, commercial or industrial structures. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zoning district where such operations are not permitted. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be

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

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

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

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

515-3-23 Model Homes

A. **Purpose and Intent.** The purpose of this Section is to permit the construction of a Model Home for purpose of marketing a new development in the City. A Model Home is permitted with the following conditions:

1. A Model Home may only be constructed after the final approval of a subdivision or Planned Unit Development.
2. The final Development Agreement must address and include any special conditions for any Model Home used for the promotion of the development.

515-3-24 Motor Vehicle Fuel Sales

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

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

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515-3-25 Nursing Homes

- A. Nursing homes and similar group housing, not including hospitals, must comply with the following minimum standards:
1. Side yards must double the minimum requirements established in the Base Zoning District.
 2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic that will be generated from the site.
 3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.

515-3-26 Outdoor Dining

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

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

515-3-27 Outdoor Service, Sale and Rental

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

515-3-28 Outdoor Storage

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

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- iii. Construction and landscaping materials or equipment currently being used on the premises (within a period of one (1) year).
- iv. Agricultural equipment and materials currently being used on the premises (within a period of one (1) year).
- v. Rear or side yard storage of firewood for the purpose of consumption only by the person or persons residing on the premises.
- vi. Off-street parking of licensed and operable passenger automobiles and pick-up trucks (does not include racing cars or stock cars) may be stored in the front yard on a designated driveway or parking area.
- vii. One (1) licensed fish house may be stored in the rear yard provided it meets the accessory building setbacks identified in the Base Zoning District. Fish houses used as storage buildings shall be treated as an accessory building and count against the number and floor area limits for the lot.

C. Non-Residential Zoning Districts.

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

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

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

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

515-3-30 Parking Lots

- A. Any parking lot not located on the same lot as the Principal Structure must comply with the following minimum standards:
 - 1. The parking lot shall be adjacent to or across an alley from a Base Zoning District that permits or conditionally permits the principal use served by the parking lot.
 - 2. The parking lot parcel(s) shall be no wider than the boundary line of the primary parcel on which the associated use is located.
 - 3. Overnight parking will be limited to vehicles owned and operated by the business associated with the principal use.
 - 4. Alley improvements desired by the adjacent property owner shall be approved by the City of Brainerd and improved at the requesting party's expense.

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

- A. Recreational vehicles may not be used for the storage of items in conjunction with a residential, business, commercial or industrial enterprise.
 - 1. Recreational vehicles may not be used as a residence, accessory dwelling unit, office or business on any residential lot.
- B. Temporary trailers and facilities generated by public service agencies (bookmobiles, bloodmobile, construction trailers, etc.) are a permitted use by Administrative Permit, provided that:
 - 1. The facilities are located in a manner that does not interfere with existing traffic patterns.
 - 2. The proposed temporary use is compatible with existing surrounding land uses.
 - 3. The request has a specific term for placement and removal, subject to approval by the Zoning Administrator.
- C. Temporary real estate sale/rental trailers or offices may be allowed by Interim Use Permit, provided that:
 - 1. The temporary trailer/office is located on the site of an approved project or subdivision.
 - 2. The temporary trailer/office meets all required setbacks of the underlying zoning district.
 - 3. The temporary trailer/office provides adequate parking in accordance with Section [515-4-12] of this Ordinance.
 - 4. The site is landscaped in a manner that enhances the trailer/office subject to the approval of the Zoning Administrator.

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

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

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

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

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

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

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

515-3-33 Senior Housing

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

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

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

515-3-34 Short-Term Rentals

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

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

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

515-3-35 Signs

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

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

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2. The purpose and intent of this Ordinance is to:
 - a. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the City in order to promote the public health, safety, and welfare.
 - b. Maintain, enhance, and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.
 - c. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
 - d. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.
- B. **Effect.** A sign may be erected, mounted, displayed, or maintained in the City if it is in conformance with the provisions of this Ordinance. The effect of this Ordinance, as more specifically set for herein, is to:
 1. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this Sign Ordinance.
 2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this Sign Ordinance.
 3. Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment and where the communication can be accomplished by means of having a lesser impact on the environment and the public health, safety, and welfare.
 4. Provide for the enforcement of the provisions of this Sign Ordinance.
- C. **Severability.** If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this sign Ordinance. The City Council hereby declares that it would have adopted the sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.
- D. **Permit Required.** No sign shall be erected, altered, improved, reconstructed, maintained, or moved in the City without first securing a Sign Permit from the City:
 1. The content of the message or speech displayed on the building and/or sign shall not be reviewed or considered in determining whether to approve or deny a Sign Permit.
 2. Application for an Administrative Permit shall be filed by the property owner or designated agent with the City on forms to be provided by the City.
 3. Application for a Permit shall contain the following information unless waived by the City:
 - a. Names and addresses of the applicant owners of the sign and lot.
 - b. Address at which any signs are to be erected.
 - c. Lot, block, and addition at which the signs are to be erected and the street on which they are to front.
 - d. Type and size of sign (e.g., wall sign, pylon sign, monument sign).
 - e. A Sketch Plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs, and any other physical features.
 - f. Inventory of existing on-site signage (size, height, location).
 - g. Plans, location and specifications and method of construction and attachment to the buildings or placement method of the ground.
 - h. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and Ordinances of the City.

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

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

1. The changing of the display surface on an existing sign.
2. Signs, subject to the following:
 - a. Signs shall only be located on private property with the permission of the property owner.
 - b. Signs shall be placed no less than fifteen (15) feet from the back of the curb and shall not be within the sight visibility triangle or located within the Right-of-Way.
 - c. Ground mounted signs shall not exceed six (6) square feet in area and shall not exceed three (3) feet in height.
 - d. No more than two (2) ground mounted signs and two (2) flags are allowed per property.
 - i. Additional signs are permitted beginning forty-six (46) days before the State primary in a State general election year until ten (10) days following the State general election, and ninety-one (91) days prior to any special election until ten (10) days following the special election.
 - e. Signs shall not be illuminated.
3. One (1) temporary off-premises sign on private property six (6) square feet or less in size, not to exceed three (3) feet. Temporary signs shall be allowed for a period of seven (7) days.
4. Signs located within the public right-of-way are regulated by Chapter [VIII] of the City Code.
5. Official signs.

F. Prohibited Signs. The following signs are prohibited:

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

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

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

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

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

I. General Regulations.

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

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- a. A Sign Permit is issued for the sign that shall require a non-refundable fee as set by Ordinance, together with a bond or cash deposit is issued for the sign.
 - b. In the event the sign is not removed within two (2) business days of the permit expiration date, the bond or cash deposit shall be forfeited as a penalty.
 - c. Permits shall be for periods not to exceed 60 consecutive days of each 90 calendar day period for one premises, or a total of 120 days in a calendar year.
 - d. One (1) temporary sign is allowed on the premises at one time.
 - e. Temporary signs permitted by Subsection [D] of this Ordinance shall be exempt from the requirements of this Section.
8. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
 9. A freestanding sign or sign structure constructed so that the faces are not back-to-back, shall not have an angle separating the faces exceeding twenty degrees (20°) unless the total area of both sides added together does not exceed the maximum allowable sign area for that District.
 10. The area within the frame of a sign shall be used to calculate the square footage except that the width of a frame exceeding twelve (12) inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six (6) inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.
 11. The top of a wall sign, including its superstructure, if any, shall be no higher than the top of the roof of the building to which such sign may be attached.
 12. Projecting signs may be allowed in commercial districts provided that:
 - a. There is a minimum of eight (8) feet of clearance under the base of the sign to the ground below.
 - b. The sign does not project more than five (5) feet beyond the wall to which it is mounted, may not project over any vehicular drive aisle or traveled portion of a public or private street and may not project over a public right-of-way except within the TC and MS Zoning Districts.
 - c. The area of the projecting sign is not more than fifty (50) percent of the maximum area allowed for an individual wall sign in the respective zoning district in Subsection [J.9 and J.10] of this Subsection.
 13. Roof signs shall be allowed in commercial and industrial districts provided that:
 - a. The height of the sign shall not exceed the height of the roof.
 - b. The sign design shall be consistent with the building character and integrated into the building architecture.
 14. Signs are not allowed to encroach into or over MnDOT right-of-way.
- J. **District Regulations.** In addition to the signs allowed by this Subsection, the following signs shall be allowed within the specific Base Zoning Districts:
1. Non-residential uses within the RL, GL, CN and TN Base Zoning Districts.
 - a. Except for the uses specified in Appendix A: Table of Uses, one (1) sign shall be allowed per parcel provided that:
 - i. The total area of the sign shall not exceed thirty-two (32) square feet.

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

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

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- b. No more than one (1) changeable copy sign per parcel.
 - c. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
 - d. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
15. In addition to the freestanding sign allowed by this Subsection, convenience food uses with drive through facilities may display additional signs, provided that:
- a. Not more than one (1) sign is allowed.
 - b. The sign shall be single sided with an area not to exceed fifty (50) square feet.
 - c. The height of the sign shall not exceed six (6) feet including its base or pole measured from grade to the top of the structure.
 - d. The sign shall not encroach into any principal building setback and shall be located directly adjacent to the drive through aisle and oriented in such a manner so that the sign provides information to the drive through patrons only and does not impair site visibility or obstruct circulation.
16. Multiple Occupancy Commercial and Industrial Buildings including Business/Commercial Centers:
- a. Except as provided for in this Subsection, individual tenants of a multiple occupancy building within a commercial or industrial zoning district may display separate wall, canopy or marquee signs when a tenant's business has an exclusive exterior entrance subject to the following requirements:
 - i. The number of wall signs shall be limited to one (1) per tenant space, except one (1) sign per exterior wall may be displayed for the tenant of a corner suite or a suite that extends through a building this having two (2) exterior walls facing a public right-of-way.
 - ii. The total area of all wall signs shall not exceed fifteen (15) percent of the tenant bay.
 - iii. Signs shall be located on the exterior wall of the tenant space to which the Sign Permit is issued but are not required to face a public street.
 - b. In addition to wall and free-standing signs, canopy and marquee signs are allowed provided that:
 - i. Occupy up to an additional sixteen (16) square feet on a building façade fronting a public street or alley.
 - ii. Letters are painted or otherwise affixed to any permissible awning or canopy as follows:
 - a. One (1) sign per canopy fascia fronting onto a street.
 - b. Be within the physical dimensions of the awnings or canopy fascia.
 - c. Business/Commercial Centers may erect one (1) free standing sign per street frontage, not to exceed two (2) freestanding signs per site (single or double faced).
 - d. Changeable copy signs are allowed in accordance with this Subsection.

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

515-3-36 Specialty Food Shop

- A. Specialty Food Shops with, or without, a drive-up window and/or with or without outdoor seating must comply with the following minimum standards:
- 1. Coffee beans cannot be roasted on site.
 - 2. Adequate screening from abutting residential uses and landscaping must be provided.

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

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

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

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

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

515-3-39 Transient Food Unit

- A. **Established Boundaries and Permitted Hours of Operation.** Transient Food Units are permitted to operate on any Non-Residential Zoning District as identified on Appendix A Table of Uses . Transient Food units are also permitted to operate on property owned by Central Lakes College, the Franklin Arts Center, and Independent School District 181 regardless of Base Zoning District.
1. Transient food unit hours of operation shall be limited to 7:00 am to 11:00 pm.

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

515-3-40 Truck Terminals

- A.** Any truck terminal must comply with the following minimum standards:
1. Vehicular access points must be located along arterial streets, and the minimum number of access points needed for safe ingress/egress shall be provided. The number of access point must be designed and

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

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

515-3-41 Warming Shelters

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

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

515-3-42 Wireless Antennas and Towers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Applicability and Exemptions.

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

E. Location Standards.

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

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

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

F. Certification, Inspection and Maintenance.

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

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

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

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

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

I. **New Tower Design Requirements.**

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

J. **New Towers.**

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

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- i. Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
3. General Business, Commercial Corridor, and Town Center Zoning Districts.
- a. Close mount monopoles or concealment/stealth types of towers are allowed with a Conditional Use Permit.
 - b. Maximum build height of 50 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone plus 20 feet or height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the zoning district in which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require Zoning Approval and comply with the following standards:
 - i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
4. Rural Living Districts.
- a. Monopoles and concealment/stealth type of towers are allowed with a Conditional Use Permit.
 - b. Maximum build height of 179 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone or height of tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the Base Zoning District in which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require an Administrative Permit and must comply with the following standards:
 - i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
 - g. Minimum size of parent property for a new wireless support structure to be located in is 10 acres.

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5. Residential Zoning Districts.

- a. Eligible properties to build new wireless support structures are restricted to institutional and public uses within the Residential Zoning Districts.
- b. Concealment/stealth types of towers are allowed with a Conditional Use Permit.
- c. Maximum height of the tower is 40 feet.
- d. Tower Setback shall be at least the distance of the engineered fall zone plus 20 feet or the height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
- e. Any accessory structure associated with these structures shall be located to comply with the applicable minimum setback requirements for the zoning district in which it is located.

K. New Antennae.

1. New antennae as a permitted secondary use shall require an Administrative Permit and shall comply with the following standards:
 - a. The applicant shall demonstrate to the satisfaction of the City that location of the antennas as proposed is necessary to provide adequate portable personal wireless service telephone coverage and capacity to areas which cannot be adequately served by locating the antennas on an existing tower or support structure.
 - b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:
 - i. Towers with a maximum capacity to support two (2) antennas shall not exceed one 140 feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed 160 feet in height.
 - ii. The setback of the tower from the nearest property line is not less than the height of the antenna. Exceptions to such setback may be granted in such cases when a qualified structural engineer specifies in writing that any failure of the pole will occur within a lesser distance under all foreseeable circumstances. The setback shall not be reduced in cases where the subject site abuts a Residential Zoning District. The setback requirements shall not be reduced below the minimum accessory building setback requirements of the Base Zoning District or the failure area of the tower, whichever is greater.
 - iii. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - iv. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.
 - c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - d. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.

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L. Temporary Mobile Towers.

1. Personal wireless service antennas located upon a temporary mobile tower as a permitted secondary use may be used on an interim basis until a permanent site is constructed shall require Zoning Approval and shall comply with the following standards:
 - a. Temporary mobile towers are exempt from collocation and permanent tower structure design standards.
 - b. The termination date of the permit shall not exceed 120 days. Temporary mobile towers located on a site longer than 120 days shall require the processing of an Interim Use Permit.
 - c. Guyed towers are prohibited.
 - d. Mobile units shall have a minimum tower design wind load of 80 miles per hour, or be set back from all structures a distance equal to the height of the tower.
 - e. All towers shall be protected against unauthorized climbing.
 - f. The height of the tower shall not exceed 100 feet.

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

1. Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:
 - a. Such antenna shall be considered an allowed Conditional Use within the General Industrial Zoning District.
 - b. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
 - c. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure and other equipment, as well as no climb security measures shall be provided on the tower or structure.

515-4 GENERAL BUILDING, DEVELOPMENT AND DESIGN STANDARDS.

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

- A. **Purpose and Intent.** This Section identifies general building design size requirements and exceptions to general height requirements applicable within each Base Zoning District.
- B. **Dwelling Unit Restriction.** No cellar, garage, tent, travel trailer, motor home, fish house, shall at any time be used as a dwelling unit.
1. An accessory building or basement may be used for as an Accessory Dwelling Unit (ADU) provided all of the lot requirements and dimensional standards of the Base Zoning District are met and the ADU complies with the Accessory Building Standards established in Section [515-4-6].

515-4-2 Building Design Standards.

A. Single-Family Detached Residential Structure Standards.

1. All single-family detached dwellings in the Rural Living, Garden Living, Contemporary Neighborhood and Traditional Neighborhood Base Zoning Districts shall meet the following design criteria:
 - a. The width of the principal residential structure shall comprise the following:
 - i. If the lot frontage is less than 75-feet, a minimum of 30% of the primary façade facing the road right-of-way must be principal structure.
 - ii. If the lot frontage is greater than 75-feet, a minimum of 40% of the primary façade facing the road right-of-way must be principal structure.
 - iii. Such width requirement shall be in addition to the minimum area per dwelling requirements established within this Ordinance.
 - b. Principal Structures must be designed to be consistent with the predominant character of the existing residential block front. The block front shall consist of all residential properties along both sides of the public or private right-of-way on which the development fronts. The block front shall be measured from intersection to intersection, to the road end, or two hundred (200) feet in either direction from the development site, whichever is nearest.
 - c. Building orientation on lots shall match the predominant orientation of other buildings along the block front.
 - d. Roofs on proposed residential structures shall be similar in slope and style to existing development and shall incorporate any or all of the following features, insofar as such features are compatible with existing development on the block front:
 - i. Dormers;
 - ii. Gabled or hipped roofs;
 - iii. Pitched roofs;
 - iv. Parapets or cornices.
 - v. Unless it is the predominant existing style on the block front, flat roofs shall not be allowed.
 - e. The exterior of the principal structure must be finished with materials that are typical of single-family construction. All edges, fasteners, and other structural elements must be finished and/or covered. Acceptable building materials include:
 - i. Hardie-board, LP, or other similar solid composite siding.
 - ii. Wood lap siding and wood shakes.

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- iii. Vinyl or aluminum siding.
 - iv. Stone and stone veneer.
 - v. Brick or other masonry with finished face.
 - vi. Other materials may be approved by the Zoning Administrator.
- f. Horizontal facades longer than twenty-five (25) feet shall be treated to reduce buildings mass and visual bulk using at least one of the following techniques:
- i. Bays or recesses (minimum depth of eighteen (18) inches);
 - ii. Window patterns;
 - iii. Contrasting materials or colors;
 - iv. Upper story setbacks;
 - v. Balconies.
2. All buildings shall be built in conformance with the State Building Code as adopted in the State of Minnesota.
3. Dwellings constructed after the effective date of this Ordinance shall have a minimum finished habitable floor area of 500 square feet.
4. All new single-family detached dwellings shall have a minimum of one (1) enclosed garage which may be either detached or attached to the principal structure.
- a. The garage shall be considered an accessory building and must comply with the standards and regulations established within the Base Zoning District.

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

- 1. The minimum width of the principal structure of an attached single-family dwelling unit shall be fifteen (15) feet.
- 2. Attached single-family dwelling units shall have a minimum finished habitable floor area of five hundred (500) square feet.
- 3. Exceptions to minimum width or size may be approved if the structure includes front porches or decks or other additions that provide additional living space for the unit.
- 4. Any conversion of an existing single-family detached residential structure into a duplex, triplex or fourplex shall meet the lot and dimensional requirements of the Base Zoning District for the total number of units. Such conversion shall also comply with the following standards:
 - a. All conversions shall be subject to a Sketch Plan review, which shall be reviewed and approved by the Zoning Administrator. If the proposed conversion does not comply with any standards of the Base Zoning District the conversion shall be denied.
 - b. Any conversion must comply with the Minnesota State Building Code.
 - c. All parking standards and requirements as established in this Ordinance must be met for the resulting number of units.
- 5. Building Materials. Attached single-family dwelling units shall be designed to create visual interest through a variety of materials, colors, textures, installation direction or other characteristics that create articulation either between units or floors. The exterior of the principal structure must be finished with materials that are typical of single-family construction. All edges, fasteners, and other structural elements must be finished and/or covered.
- 6. Garages.

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- a. Each dwelling unit shall include, at a minimum, a one (1) enclosed garage stall, that shall have a minimum dimension of 12 feet by 20 feet.
 - b. *Dwellings Units without basements.* Each dwelling unit shall include at a minimum, a one (1) stall 16' x 20' foot garage.
7. Utilities.
- a. Separate public utility services including water and sanitary service shall be provided to each dwelling unit.
 - b. Private utilities including phone, gas, internet or other services shall be provided to each dwelling unit and management or maintenance responsibilities established within the homeowner's association.
8. Homeowners Association. A homeowners' association shall be established for all owner-occupied attached single-family developments with two or more units and townhome developments. The homeowners' association documents and covenants shall be subject to review and approval of the City Attorney. The homeowners' association shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing, and regular maintenance of private driveways and other areas owned in common when there is more than two (2) individual property owner having interest in the development and its common areas.
9. Building elevations and floor plans shall be submitted with any land use application. The plans shall clearly identify exterior building materials, colors and include a floorplan of all floors having habitable space. If a formal land use application is not required, the owner shall be required to submit a Site Plan review application as described in Section [515-5-5].
- C. **Multi-family attached dwelling units** (5 dwelling units or more): All multi-family buildings constructed within the City shall conform to the following:
1. Multiple family dwelling units shall have the following minimum floor area per unit:
- Table 515-4-2.1. Multi-Family Minimum Floor Area**
- | Unit Type | Minimum Floor Area per Unit |
|-----------------------------|---|
| Efficiency Units | 400 square feet |
| One Bedroom Units | 500 square feet |
| Two Bedroom Units | 700 square feet |
| More than Two Bedroom Units | An additional 100 square feet per bedroom |
2. Exterior Building Materials. Multi-family dwelling units shall be designed to create visual interest through a variety of materials, colors, textures, installation direction or other characteristics that create articulation either between units or floors.
- D. **Commercial Use Design Construction Standards.** All buildings constructed within TN-2, TN-3, CC, TC and GC Zoning Districts shall conform to the following:
1. Commercial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
 2. Commercial building accents such as cloth or metal awnings, trim, banding, walls, entries or any portion of the building wall accent colors shall not exceed fifteen (15) percent of each wall area.
 3. Exposed roof materials shall comply with the Minnesota State Building Code.
 4. Exterior Building Materials – For all business and commercial districts.
 - a. New buildings constructed in the CC, TN-2, TN-3, ME and TC Zoning Districts should be consistent with the character of surrounding structures. Typical and permitted materials include: brick,

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

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

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

- a. New buildings constructed in the MS Zoning District should be consistent with the historic architecture and character of surrounding structures. Permitted materials include: brick, dimensioned stone, rock faced brick, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, or glass. Brick and stone replicas and exterior finish installations (EFIS) that are designed to be similar to the historic architecture of a building may be used on not more than fifty (50) percent of a building.
- b. Building additions that increase the size of a building by more than 50 percent, or any modification to the street facing façade of the building that alters the front setback, or character shall be required to conform to the standards of this Ordinance.

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

1. Principal Structures in the Industrial Zoning District with less than 1,000 square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
2. Exterior Building Materials.
 - a. New buildings constructed in the GI Zoning District should be constructed using durable and lasting materials. Permitted typical materials include: brick, dimensioned stone, rock faced block, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, glass, EFIS, or metal panels. Metal panels shall not encompass more than an average of fifty (50) percent of street side building elevations combined.
 - b. Any structure in the Industrial District within three hundred (300) feet of Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3 shall comply with the Commercial Exterior Building Material Standards established in the preceding Subsection [D].

515-4-3 Height.

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

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

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

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

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

515-4-4 Mechanical Equipment Screening.

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

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

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

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

- A. A minimum of two (2) feet above 100-year flood elevation of areas with a separate emergency overflow.
- B. A minimum of three (3) feet above the 100-year flood elevation of areas with no separate emergency overflow.
- C. The 100-year flood elevation or high-water level shall be determined by a Registered Engineer.

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

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

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

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

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

D. **Commercial Accessory Buildings Use**

1. Accessory buildings shall comply with the standards established in the Base Zoning District.
2. Commercial accessory buildings shall comply with all dimensional standards established by the Base Zoning District in which the use is located.
3. Commercial accessory buildings shall be constructed of building materials to match the principal structure and comply with the building material requirements established in Section [515-4-2].

E. **Industrial Accessory Building Use.**

1. Industrial accessory buildings shall not exceed thirty (30) percent of the gross floor space of the principal building and shall comply with the standards established in the Base Zoning District.
2. Industrial accessory buildings shall comply with all dimensional standards established by the Base Zoning District.
3. Industrial accessory buildings shall be constructed of building materials to match the principal structure or with any of the following fabric material:
 - a. Teflon Coated Fiberglass (PTFE)
 - b. Silicone-Coated Fiberglass (SIPE)
 - c. Woven PTFE (EPTFE)
 - d. Ethylene Tetrafluoroethylene (ETFE)

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- e. Vinyl Coated Polyester (PVC)
- f. High-Density Polyethylene (HDPE)

F. Greenhouses.

1. The following clear material is permitted for greenhouse construction to allow radiant heat from the sun:
 - a. Glass
 - b. Rigid Polycarbonate Panels
 - c. Semi Rigid Polyethylene Panels
 - d. Rigid Fiberglass Panels
 - e. Rigid Acrylic Panels
 - f. Semi Rigid Vinyl
 - g. Flexible, rolled material such as Polyethylene, Polycarbonate, and Fiberglass.

G. Swimming Pools.

1. Purpose. The following standards are established for the installation of any in-ground swimming pool meeting the following characteristics. Single-Family detached residential and Attached single-family dwellings (duplex, triplex, or fourplex). The following shall apply to all swimming pools which are intended for accessory uses to single-family attached and detached residential uses:
 - a. A building permit shall be required for any in-ground or permanent above ground swimming pool that is over twenty-four (24) inches in depth, or over 5,000 gallon capacity.
 - b. Seasonal swimming pools twenty-four (24) inches in depth or greater must have a ground fault circuit if connected to an electrical system.
 - c. An application for the construction of swimming pools shall be on a City Application Form and accompanied by a fee established by City Council Ordinance.
2. Multi-family residential uses/Commercial Pools. For private swimming pools that are intended for and used by the occupants of a multi-family dwelling unit or commercial structure and the guests of the occupants, or for private and public clubs and organizations, the following regulations shall be met in addition to the permit application requirements.
 - a. No part of the water surface of the swimming pool shall be less than fifty (50) feet from any lot line.
 - b. No pumps, filter or other apparatus used in connection with or to service a swimming pool shall be located less than fifty (50) feet from any lot line and must be contained within an insulated building.
 - c. The pool area shall be adequately fenced to prevent uncontrolled access from the street or adjacent property. Fences shall be at least five (5) feet in height. The bottoms of the fences shall not be more than six (6) inches from the ground. Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable (chain link fences must be vinyl coated with slats for screening). All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a height not lower than forty-eight (48) inches so as to be inaccessible to small children. Prior to filling the pool, the approved fence or enclosure must be completely in place and inspected and approved by the City Building Inspector. Adequate screening including, but not limited to, landscaping shall be placed between the pool area and adjacent lot lines.
 - d. All deck areas, patios, or other similar areas used in conjunction with the swimming pool shall be located at least thirty (30) feet from any lot line.
 - e. To the extent possible, back-flush water or water from pool drainage shall be directed onto the owner's property. Draining pools into the sanitary sewer is prohibited.

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H. Refuse and Recycling Material and Containers.

1. Refuse Containers Location and Screening.

- a. Residential Structures with Four (4) or Less Units. Garbage cans, waste containers and recycling bins shall be kept in rear or side yards or indoors except on pick up days.
- b. Commercial, Industrial, and Institutional Uses, Residential Structures with More Than Four (4) Units shall comply with the following:
 - i. All refuse, recyclable materials, and associated containers shall be stored within a structure or screened by a fence or wall as viewed from all abutting property and the public right-of-way.
 - ii. All refuse and containers must be screened from view of abutting properties and the public right-of-way by a wall of at least six (6) feet in height and a minimum opaqueness of eighty (80) percent. Chain link fences with slats are prohibited.
 - iii. Storage shall be located in the rear or side yard, if possible, and shall observe all accessory building setback requirements.
 - iv. The location must be accessible for pick up hauling vehicles.
 - v. All containers, fences and walls shall be approved by the Zoning Administrator and be kept in a good state of repair with lids designed to prevent spilling and spread of debris and access by animals.

515-4-7 Site Design Standards.

A. **Purpose and Intent.** It is the purpose of this Section to outline the general rules pertaining to lot size, building placement, open space, setbacks, setback exceptions and permitted encroachments that are not identified in specific zoning districts.

B. **Minimum Lot Area Requirements.**

1. Except for non-conforming lots of record governed by Section [515-5-10] of this Ordinance, the minimum lot area and dimensional requirements shall conform to the standards of the applicable Base Zoning District and any applicable Overlay District. No lot, yard, or other open space shall be reduced in area or dimensions so as to make such lot, yard, or open space less than the minimum required by this Ordinance, and if an existing yard or other open space is less than the minimum required, it shall not be further reduced.
2. No required yard or other open space allocated to a building or dwelling unit shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

C. **Buildable Area.**

1. Any lot or parcel served by public water or sanitary sewer services shall require a minimum buildable area to support a principal structure that complies with the minimum dimensional and lot requirements established within the Base Zoning District that the parcel is located. The required minimum lot area shall be exclusive of road easements.
2. Any lot or parcel served by private well and sanitary septic system must contain a minimum of 0.75 acres of contiguous buildable land capable of supporting an individual septic system that complies with Minnesota Rules 7080, or successor statutes. All other minimum dimensional and lot requirements of the Base Zoning District shall be met.

D. **Building Placement and Multiple Structures.**

1. Street Obstructions. All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.
2. Principal Buildings. Except in an approved Planned Unit Development (PUD) that specifically allows it, not more than one (1) principal building shall be located on a lot or parcel.

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E. Yards.

1. Yards. No required yard or other green space allocated to a building or development area shall be used to satisfy yard, other green space, or minimum lot area requirements for any other building or development.
2. Green Space. The Base Zoning District establishes the maximum impervious surface coverage of a lot or parcel. The remaining uncovered area shall be considered Green Space.

F. Setbacks

1. Reductions. No setback or yard shall be reduced in area or dimension to make such setback or yard less than the minimum required by this Ordinance, and if the existing setback, yard or other green space as existing is less than the minimum required, it shall not be further reduced.
2. Front Setback Exception. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.
3. Corner Lots and Double Frontage Lots. All lots and improvements must conform to the setback standards as established in the Base Zoning District. In the case of a lot with double frontage the primary frontage shall be established by determining the orientation of the principal structure's main entrance.
4. Traffic Visibility Setback. The visibility setback, or site triangle, shall be regulated per the Base Zoning District standards.

G. Permitted Yard Encroachments. The following structural elements or equipment shall not be considered encroachments on required yards:

1. Flag poles, sidewalks, wheelchair ramps, trees, shrubs, plants, yard lights, mailboxes, floodlights, or other sources of light illuminating authorized illuminated signs, or light standards for illuminating yards for safety and security reasons, provided the direct source of light complies with Section [515-4-8] of this Ordinance. Replacement of any item located within a public easement which has been destroyed or damaged due to accessing the easement shall be at the owner's expense.
2. Flues, belt course, bay windows, leaders, sills, pilaster, eaves, lintels, cornices, gutters, awnings, open canopies, chimneys, ornamental features, and open fire escapes, provided they do not extend more than four (4) feet into a required yard.
3. Terraces, steps, decks, uncovered porches, stoops or similar structures, which do not extend in elevation above the height of the ground floor elevation of the principal building and do not extend within two (2) feet of any lot line.
4. Decks, balconies, uncovered porches, and/or similar features, attached to the principal building which extend in elevation above the height of the ground floor elevation of the principal building provided they do not extend within ten (10) feet of the rear lot line or extend beyond side yard accessory building setbacks.
5. In rear yards, clothes lines, recreational equipment (non-vehicular), trellises, open arbors are permitted provided that they maintain a five (5) foot setback from the side and rear lot lines. No encroachment shall be permitted within existing drainage or utility easements.
6. Accessory equipment or uses including: gazebos, air conditioners, accessory antennas, sport courts, swimming pools, and trash enclosures are as regulated within this Section.
7. Fences that comply with the standards and regulations established in Section [515-4-11].
8. Essential services.

H. Zero Lot Line Subdivisions.

1. **Attached Single-Family Residential and Multi-family Residential Uses.** If existing duplex, triplex, fourplex townhouses, or apartment units are proposed to be subdivided so that each unit is on an individual

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unit or condominium basis for owner occupancy, it shall require a Planned Unit Development (PUD) according to the provisions of Section [515-5-7] of this Ordinance. Any proposed subdivision shall meet the following requirements:

- a. Prior to a duplex, triplex or fourplex building subdivision, the base lot shall meet all the requirements of the Base Zoning District in which the building is located.
 - b. There shall be no more than one (1) principal structure on a base lot in all Zoning Districts, unless otherwise permitted within an approved PUD. The principal structure on a lot created in a duplex, triplex or fourplex building subdivision will be that portion of the dwelling unit that is existing or constructed on the platted lot.
 - c. Permitted accessory uses as defined by the Base Zoning District is acceptable provided that the use meets all the dimensional and lot requirements.
 - d. A property maintenance agreement shall be arranged by the applicant and submitted to the City Attorney for review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure including but not limited to siding, roofing (type and color), fencing, driveways, maintenance, etc. and the lots to meet minimum City standards. The agreement is to be filed with the County Recorder's office as a deed restriction against the title of each unit lot.
 - e. Separate public utility service shall be provided to each subdivided lot or unit and shall be subject to the review and approval of the City Engineer.
 - f. The subdivision is to be platted and recorded in conformance to requirements of the Subdivision Ordinance.
2. Buildings may be excluded from side yard requirements if party walls are utilized or if the adjacent buildings are planned to be constructed as an integral structure and a Conditional Use Permit is secured.

515-4-8 Outdoor Lighting.

A. **Purpose and Intent.** It is the purpose of this Section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing nighttime safety, utility, security and productivity.

B. **Exemptions.** The provisions of this Section shall not apply to the following:

1. The use of temporary outdoor lighting used during customary holiday seasons.
2. The use of temporary outdoor lighting used for civic celebrations and promotions.
3. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
4. Emergency lighting used by police, fire, and rescue authorities.
5. Outdoor athletic facilities, except that lighting for such facilities, shall be shut off within ninety (90) minutes of final activity.

C. **Non-Conforming Uses.**

1. Existing Fixtures. All outdoor lighting fixtures existing and installed prior to the effective date of this Ordinance are exempt from regulations of this Section except that the light source shall be controlled to minimize light trespass onto adjacent property. Light trespass shall not exceed one (1) foot candle at the center line of a street or four-tenths (0.4) foot candles at the property line of adjacent residential property.
2. New Fixtures. Whenever a light fixture existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this Section shall be satisfied.

D. **Light Trespass.**

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1. Maximum Light Levels. Light trespass shall not exceed one (1) foot candle at the center line of a public street or four-tenths (0.4) foot candles at the property line of adjacent residential property as measured at the property line per the method outlined in this Section.
2. The foot candle level of a light source shall be measured at the property line and taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.

E. Performance Standards.

1. Residential Use Standards. All exterior lighting shall be directed away from adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
 - a. The light source shall be controlled so as not to light adjacent property in excess of the maximum light levels defined by this Ordinance.
 - b. The maximum height of the fixture, pole and base above the ground grade permitted for light sources is thirteen (13) feet. A light source mounted on a structure shall not exceed the height of the structure.
 - c. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of twenty (20) feet may be allowed.
 - d. Any luminaire affixed to a structure shall contain a full cut off fixture which directs and cuts off light at an angle of ninety (90) degrees or less.
 - i. Any luminaire or light source not affixed to a structure shall be hooded and down cast to protect the night sky.
2. Business/Industrial Use Standards. All exterior lighting shall be directed away from adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
 - a. The luminaire shall contain a full cut off fixture which directs and cuts off light at an angle of 90 degrees or less.
 - b. The light source shall be controlled so as not to light adjacent property in excess of the maximum light levels defined by this Ordinance.
 - c. Architectural/historical lights that include fixtures that are not shielded, or lighting of entire facades or architectural features of a building are permitted. In no case shall the light affect adjacent property in excess of the maximum light levels defined in this Ordinance.
 - d. In GC and CC Districts, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is thirteen (13) feet. A light source mounted on a structure shall not exceed the height of the structure.
 - i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 20 feet may be allowed.
 - e. In TC, MS, ME Districts, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is 20 feet. A light source mounted on a structure shall not exceed the height of the structure.
 - i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 25 feet may be allowed.

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- f. In the GI District, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is 25 feet. A light source mounted on a structure shall not exceed the height of the structure.
 - i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 30 feet may be allowed.
- g. *Location.*
 - i. The light source of an outdoor light fixture shall be set back a minimum of three (3) feet from a street right-of-way or residential property and three (3) feet from any other property line.
 - ii. No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by an Administrative Permit.
 - iii. Direct or reflected light from high temperature processes such as combustion or welding shall not be visible from any adjoining property.
- 3. Outdoor Recreation. Outdoor commercial or public recreational uses such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts have special requirements for nighttime lighting. In such cases, an Administrative Permit shall be required and compliance with the following:
 - a. No outdoor recreation facility shall be illuminated after 12:00 a.m. except for security lighting. Exceptions may be granted by the Zoning Administrator for special events.
 - b. Off-street parking areas for outdoor recreation uses shall meet the requirements stated for business or industrial applications as found in Section [515-4-12] of this Ordinance.
 - c. The provisions for an Administrative Permit, Section [515-5-9] of this Ordinance, are considered and satisfactorily met.
- F. **Submission of Plans.** All zoning and building applications, except single and two family residential, that include outdoor lighting shall submit the following information in addition to other information required by the Zoning Administrator:
 - 1. Sketch Plans indicating the location of all lighting devices.
 - 2. Description of the lighting devices, fixtures, lamps, supports, and reflectors. The description shall include, but is not limited to, catalog cuts by manufacturers and drawings.
 - 3. Photometric plans showing the location of each light source and the level of light (measured in foot candles) every 20 feet.

515-4-9 Landscaping, Green Space and Screening Requirements.

- A. **Purpose and Intent.** The purpose of this Section is to establish standards for general landscaping, green space and required screening applicable to all Districts. When landscape material is used for screening it shall incorporate plant types and sizes that will promote healthy landscapes. These standards are intended and designed to assure compatibility of uses and to enhance the health, safety and general welfare of the residents of the City of Brainerd.
- B. **Minimum Requirements.** The requirements in this Section are minimum requirements, and under no circumstances shall they preclude the ability of the property owner and the City from agreeing to more extensive landscaping.
- C. **Invasive Species.** The planting of any noxious weed that is prohibited by Crow Wing County, the State of Minnesota, or the United States Federal Government shall not be planted on any property within the Brainerd City Limits. Any noxious weed that is on the State of Minnesota's Eradicate List must be eradicated, meaning all of the above and below ground parts of the plant must be destroyed, as required by Minnesota Statutes, Section [18.78].

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515-4-10 General Landscaping Improvement Standards.

A. **Landscape Improvement Standards by Use.** Except as may be required or permitted in this Section, or provided by development contract or approval by the City Council, the site area remaining after providing for any required off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ground cover such as mulch or landscape rock, turf grass, ornamental grass, shrubs, trees other acceptable vegetation or treatment generally used in landscaping prior to the date of a Certificate of Occupancy.

1. Single-family detached and single-family attached residential uses. In addition to the specific planting requirements stated below all yards shall be started with seed or sod and required landscaping improvements installed.
2. Multi-family attached residential uses. The Main Street District is exempt from these requirements.
 - a. *General Site Landscaping.* Four (4) shrubs shall be planted per dwelling unit. Two (2) perennials can be substituted for (1) shrub. Shrubs used as required screening as identified in (b) shall not be counted in meeting these requirements.
 - b. *Privacy Screen.* Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public or private street an eighty (80) percent opacity four (4) foot high landscaped privacy screen shall be provided. The screen shall consist of a combination of trees, shrubs, berms and/or fences (no walls).
3. Non-Residential Uses.
 - a. *General Site Landscaping.* All developed portions of the site shall conform to the general landscaping requirements in this Section, except where screening is required.
 - b. *Commercial District Landscape Requirement.* One (1) shrub is required for every 300 square feet of total building floor area up to 10,000 square feet. Thereafter one (1) shrub is required for every 600 square feet in excess of 10,000 square feet. Two (2) perennials can be substituted for (1) shrub. The required plantings should be spaced around the foundation of the building and do not count towards any required screening. The Main Street District is exempt from this requirement.
 - c. *Screening.* A six (6) foot high fence or landscaped screen, providing eighty (80) percent year around opacity, shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes. Berms may be used as part of the six (6) foot screen height but shall not be used to achieve more than three (3) feet of the required height. Landscape material provided along the outside of a fence or wall (except when adjacent to an alley) with maximum spacing is required as follows:

Table 515-4-10.1. Plant Spacing Requirements For Screening

Type of Landscape Screening	Planting Requirements
4' High Deciduous Shrub	1 per 4 lineal feet
4' High Evergreen Shrub	1 per 5 lineal feet
6' High Deciduous Shrub	1 per 6 lineal feet
6' High Evergreen Shrub	1 per 8 lineal feet

- d. Required screen height must be met within three (3) years of planting.
 - e. See Section [515-4-12] for parking lot requirements.
- B. **Landscape Improvements in Easement Areas.** Where possible, all landscape improvements shall be placed outside of any required drainage or utility easement. If it is not possible to avoid improvements within easement areas, the owner shall agree that any fence, wall, or trees placed upon utility easements are subject to removal at the cost of the property owner if required for the maintenance or improvement of the utility, and that if such landscape improvement is required for screening as defined in this Section that it shall be the responsibility of the owner to reinstall or plant new landscaping to meet the screening requirement..

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C. **Required Tree Planting.** Except for lots and parcels developed prior to the adoption of this Ordinance, new development shall have the following minimum landscape requirements:

1. All required tree planting plans shall have a mixture of conifer and deciduous trees.
 - a. Coniferous trees shall not be located within 50 feet of a street loaded driveway.
2. In all commercially zoned districts, new development shall include a planting rate of one (1) tree for every 100 feet of frontage along all roads. The required trees shall be planted within 10 feet of the front property line, or right-of-way line. Parking lot island tree planting requirement does not count towards this number. The Main Street District is exempt from this requirement.
3. Industrial zoned property with street frontage along Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3 must meet commercial tree requirements.
4. In all Rural Living and Garden Living Base Zoning Districts new parcels or lots shall include plantings at the rate of one (1) tree per 3,000 square feet of undeveloped or open space area. Requirement does not include delineated wetland area.
5. In all Contemporary Neighborhood and Traditional Neighborhood Base Zoning Districts new lots or development shall include landscape plantings as identified in Table [515-4-10.2]. A minimum of one deciduous tree shall be planted in the front yard within 10-feet of the front property line, or right-of-way line.

Table 515-4-10.2. Required Tree Planting in CN and TN Zoning Districts

Lot width	Number of trees	Spacing on center
45-60'	1	Per each 20'
65'+	1	Per each 25'

- a. Required trees may be planted at uniform intervals, at random, or in groupings. Newly planted trees shall comply with the requirements of this Ordinance. Trees retained on site following development can be reduced from the total required plantings.
- b. Trees that shall not be planted and do not count towards the required planting include the following: Amur Maple, Black Locust, Norway Maple, Russian Olive, Siberian Elm, Poplar, and Cottonwood.

D. **Green Space.**

1. **Non-Residential Site Development and Non-Residential Site Redevelopment.** Each Base Zone District shall set a maximum impervious surface coverage as defined in Base Zoning District. The remaining area shall be considered green space which may be used for stormwater management, raingardens, wetland areas and required buffers, and landscaping. A minimum of fifty (50) percent of the required green space shall be located along the street frontage with the most traffic and visibility, or adjacent to any residential use or residentially zoned property to provide a buffer between the non-residential use or structure.

E. **Screening.**

1. Landscape Plan. Prior to approval of a building permit, a landscape plan and planting schedule shall be approved. The planting schedule shall include species, size of plantings, mature size, and site location. The landscape plan shall be developed with an emphasis upon the following areas:
 - a. The boundary or perimeter of the proposed site adjoining other property.
 - b. The immediate perimeter of the structure.
 - c. The perimeter of parking and loading areas.
2. Requirements. All landscaping incorporated in said Plan shall conform to the following standards and criteria:
 - a. All plants must at least equal the following minimum size:

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Table 515-4-10.3: Minimum Landscape Plant Standards.

		Potted/Bare Root or Balled or Burlapped
Shade Trees*		1 ½ inch diameter
Ornamental Trees (Flowering Crab, Hawthorn, etc.)		1 ½ inch diameter
Evergreen Trees		4 - 5 feet high
Tall Shrubs and Hedge Material (Evergreen or Deciduous)		2 ½ feet high (5 gallon)
Low Shrubs:	Deciduous	12 – 24 inches (2 gallon)
	Evergreen	12 – 24 inches (2 gallon)
	Spreading Evergreens	6 – 18 inches (2 gallon)
Perennials	Hardiness Zones 2-4	(1 gallon)
Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, man-made irrigation, grading, etc.)		
* All required plantings must be of approved nursery stock.		

3. Recommended Plant Species for Screening. A Landscape Plan should incorporate a variety of different species to promote visual interest and plant resilience. The following is a list of plant species based on the required screening categories. Substitutions can be made with approval from the Zoning Administrator.

a. *Four (4) foot high plant screening approved shrubs.*

- i. Deciduous Shrubs: Spirea, Potentilla, Weigela, Honeysuckle, Ninebark, Alpine Currant, Compact Viburnum, Hydrangea, Boxwood, Dwarf Korean Lilac, Dogwood, Chokeberry, Serviceberry, Dwarf Arctic Willow, Globe Peashrub, Cotoneaster.
- ii. Evergreen Shrubs: Sea Green Juniper, Globe Arborvitae, Maney Juniper, Taunton's Yew, Mugo Pine.

b. *Six (6) foot high plant screening approved shrubs.*

- i. Deciduous Shrubs: Red Prince Weigela, Ninebark, Compact Viburnum, Hydrangea, Boxwood, Dwarf Korean Lilac, Miss Kim Lilac, Dogwood, Chokeberry, Serviceberry, Dwarf Arctic Willow, Globe Peashrub, Cotoneaster.
- ii. Evergreen Shrubs: Pyramidal Arborvitae, Techney Arborvitae, Maney Juniper, Tannenbaum Mugo Pine, Sky High Juniper, Wichita Blue Juniper.

F. Design.

1. All land area disturbed as result of development activities not planned for improvements within the property lines (or beyond, if site grading extends beyond) must be restored and revegetated with seed or sod and landscaping as approved within the Landscape Plan.
2. Newly established or created turf slopes in excess of three to one (3:1) are prohibited unless approved by the Zoning Administrator.

G. Parking Lots.

1. All exposed parking areas of ten (10) or more spaces in a front and side yard abutting a public street right-of-way shall be landscaped. Industrial zoned property is exempt from this requirement except for those business with street frontage along Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3.
2. One (1) shrub shall be planted for every five (5) lineal feet of parking lot perimeter that is adjacent to a public street. Two (2) perennials can be substituted for one (1) shrub. Plants shall be two (2) feet to four (4) feet in height and designed in a way to screen the parking lot from street view.

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3. When a parking lot is across the street from a residentially zoned property, the required screen height shall be four (4) feet. Refer to Table [515-4-10.1] Plant Spacing Requirements for Screening.
4. When a parking lot is adjacent to or across an alley from a residentially zoned property, the required screen height shall be increased to six (6) feet. Refer to Table [515-4-10.2] Plant Spacing Requirements for Screening.
 - a. Alley screening requirement is only necessary when parking stalls or drive through lanes are facing a residentially zoned property.
5. A four (4) foot high wall or fence constructed of masonry, brick, wood, or vinyl may be used for required screening. The area between the parking lot and a wall or fence shall be planted with grass or established with landscape material.
6. A chain link fence with or without slats is not permitted to satisfy screening requirements.
7. Landscape material is required on the exterior, or finished side of a fence with maximum spacing required as follows:
8. Off-street parking facilities with internal parking rows of five (5) or more spaces shall incorporate irrigated landscaped islands on both ends of the row as part of the design. Landscaped islands shall be a minimum of six (6) feet wide and extend the length of the parking stall. The islands shall be contained within curbed beds. When internal parking rows contain twenty (20) or more parking stalls, landscape islands shall be provided so that there is not a continuous row of over ten (10) parking spaces.
 - a. In lieu of irrigated islands, drought tolerant plant materials may be used. Plant material information shall be provided to verify drought tolerance.
 - b. Recommended drought tolerant shrubs include: Spirea, Potentilla, Alpine Currant, Dwarf Bush Honeysuckle, Lilac, Ninebark, Juniper, Spruce.
 - c. Recommended drought tolerant perennials include: Russian Sage, Coneflower, Black Eyed Susan, Catmint, Salvia, Veronica, Yarrow, Sedum, Daylily, Ornamental Grasses.
 - d. At least fifty (50) percent of each interior landscaped area shall be covered by living plant material, such as sod shrubs, perennials, and ground cover or trees.
 - e. One (1) tree is required in every parking lot island.
 - f. It is not the intent of this Section to relieve a project from the installation of islands or peninsulas that are necessary to promote the safe and efficient flow of traffic, regardless of parking lot size.
 - g. No landscaping or screening shall interfere with drive or pedestrian visibility for vehicle entering, circulating or exiting the premises.

H. Installation and Maintenance. The following standards shall be observed where installation and maintenance of landscape materials are required:

1. Installation. Landscaping shall be installed in the manner recommended by the manufacturer. Wire and rope caging and non-degradable burlap around tree root balls shall be removed during planting.
2. Landscape Guarantee. All new plants shall be guaranteed for one (1) full year from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or shall be replaced.
3. Protection from Vehicles. Landscaping shall be protected from vehicles through use of curbs or wheel stops in parking lots.
4. Seeding or Sodding/Off-Season Planting Requirements. Lots or parcels shall be established with seed or sod prior to issuance of a Certificate of Occupancy or property use. If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season.

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5. **Maintenance.** Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. A healthy, neat and orderly appearance includes proper pruning, regular mowing of lawns, and removal of all litter and the replacement of dead and unhealthy plant material. All unhealthy and dead plant material shall be replaced immediately upon notice from the City of Brainerd, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.
- a. All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within 300 feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.
 - b. *Exception.* Some requirements of preceding Subsection (E.) may be waived if a drought tolerant landscape plan is approved and proper maintenance and management plan is established specifically for the plant schedule identified.
 - c. Maintenance of a required buffer plantings shall be the responsibility of the individual property owners or, if applicable, the homeowner's association.
 - d. All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed. Replacement of landscape materials or plantings in a required buffer shall be consistent with the original screen design. All repair or replacement of plantings in a required buffer shall be done within ten (10) days of written notification from the City.

515-4-11 Fence Standards.

- A. **Permit Required.** A fence permit is required for any fence, partition, structure, wall or gate constructed within the required yard.
- B. **Fence Exemptions.** Fences which are ninety (90) percent open (barb wire, chain link, woven wire, and other similar type fences) which are used for containing non-domestic animals within the RL-1, RL-2 and GL Zoning Districts are not subject to the provisions of this Section and do not require a fence permit.
- C. **Fencing Sketch Plan.** An application for a fence permit shall be accompanied by a scaled Sketch Plan providing lot dimensions, the location of existing buildings, structures, and easements on the lot, and the location of the proposed fence. Burden of proof for property line and pin locations shall be the responsibility of the property owner.
- D. **Fence Location.** All fences or walls shall be located entirely within the property of the person or firm constructing the fence unless the owner of the adjoining property agrees, in writing, that such fence may be erected on the common property line of the respective properties.
1. No fence or wall shall be permitted on public rights-of-way.
 2. Traffic visibility requirements set forth in the Base Zoning District shall be met.
 3. No fence or wall shall obstruct natural drainage or extend within a wetland, drainage ditch, stream, or river.
 4. Fences may be constructed within utility and drainage easements with the written permission of the Zoning Administrator.
 5. Wire fences other than chain link are not permitted within five (5) feet of the property line.
 6. All fences shall be located at least four (4) feet from an alley right-of-way.
- E. **Fence Construction and Maintenance.**
1. Every fence shall be constructed in a professional manner and of substantial materials reasonably suitable for the purpose for which it is intended. The materials and design shall be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.

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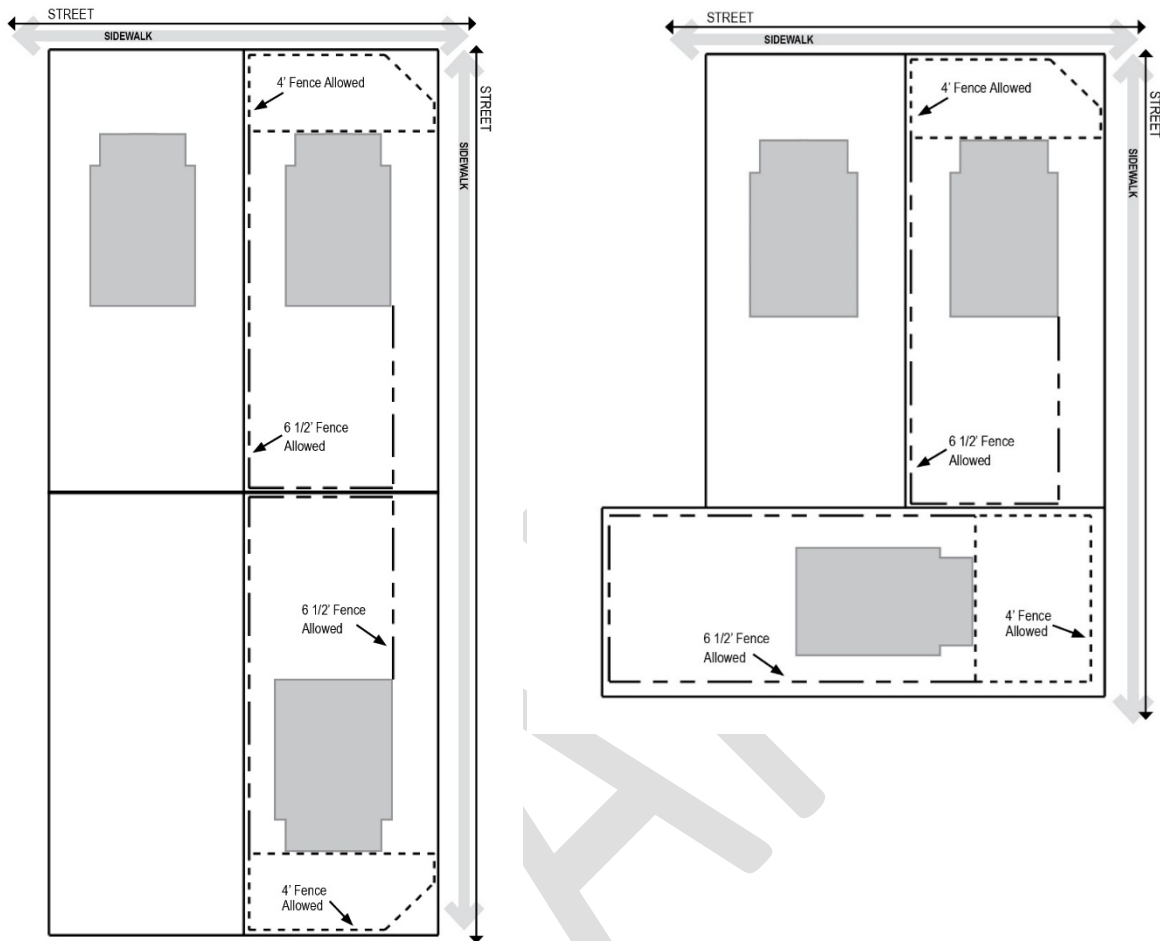
2. Every fence shall be regularly maintained and shall not become or remain in a condition of disrepair, or constitute a nuisance.
3. All posts or similar supporting devices used in the construction of fences shall face inward toward the property being fenced. That side of the fence considered to be the face shall be oriented toward abutting property or rights-of-way.
4. Electric and barb wire fences are prohibited in residential districts.
5. Within non-residential districts, barbed wire may be attached to the tops of fences with the following conditions:
 - a. Fences shall be a minimum of eight (8) feet in height exclusive of the security arm.
 - b. The security arm shall be angled in such a manner that it extends only over the property of the permit holder.
 - c. Wire security fencing shall not be permitted within the required front yard or along a property line abutting a residential use.
6. Solid walls, including retaining walls in excess of forty-eight (48) inches in height require a building permit.
7. The good or finished side shall face the neighboring property.
8. All fences that completely enclose an area shall contain a gate to provide public safety access.

F. Fence Height.

1. Fences may be located in any yard up to a height of four (4) feet.
2. Except as prohibited by Section [D] a fence up to six and one half (6½) feet high may be erected from a line extended from the front façade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line (see Figure 515-4-11.1).
3. Fence height shall be measured from the adjacent ground level to the top of the fence section on the side facing the neighboring property. Fence posts above the fence section and ornamental post features are exempt from the height limits.

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Figure 515-4-11.1 Fence Height Lot Diagrams



4. Height Exceptions.

- a. Fences for sport courts may be up to 12 feet in height with ten (10) foot setback from any property line, and must be located behind the principal structure
- b. Residential fences up to eight and one half (8½) feet in height are permitted along a property line abutting a commercial, industrial, or semi-public use or non-residential zoning district.
- c. Non-residential fences up to eight and one half (8½) feet in height are permitted. Such fences in a front yard must be ninety (90) percent open.
- d. Fences taller than eight and one half (8½) feet in non-residential districts require a Conditional Use Permit.

515-4-12 Off-Street Parking

- A. Purpose and Intent.** The regulations of off-street parking spaces within this Ordinance is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

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- B. Application of Off-Street Parking Regulations.** The regulations and requirements set forth herein shall apply to all off-street parking facilities, except single-family detached and duplex dwellings, in all of the Zoning Districts of the City.
- C. Sketch Plan Drawing Necessary.** Applications for a change of use, new construction or expansion in all Zoning Districts shall be accompanied by a Site Plan drawn to scale and dimensioned and indicating the location of off-street parking, loading spaces, driveways, and curb cuts in compliance with the requirements set forth in this subdivision and Section [515-5-9] of this Ordinance.
- D. Exemptions from Parking Requirements.** All uses located within the Commercial Corridor (CC), General Commercial (GC), Town Center (TC), Main Street (MS), and General Industrial (GI) Zoning District shall be exempt from the following off-street parking requirements of this Ordinance.
- E. General Provisions.**
1. Space Reduction. Existing off-street parking spaces upon the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.
 2. Existing Uses. Should a legal, non-conforming building, structure, or use in existence upon the effective date of this Ordinance be damaged or destroyed by fire or other cause, it may be re-established in accordance with Section [515-5-10] of this Ordinance, except that in so doing, any off-street parking or loading which existed shall be retained.
 3. Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this Ordinance.
 4. Use of Parking Area. Required off-street parking space in any district shall not be utilized for storage of goods or for the storage of vehicles which are inoperable or for sale or for rent.
 5. Accessible Parking. All parking associated with any building, structure or use shall be required to conform to the disability accessible parking standards pursuant to Minnesota State Statutes 168.021, as may be amended.
 6. Parking for Residential Uses. Off-street parking areas accessory to a residential use shall be utilized solely for the parking of passenger automobiles, recreational vehicles, and/or one (1) truck not to exceed 12,000 pounds gross weight rating for each dwelling.
 7. Use of Required Parking Facilities for Commercial and Industrial Uses. Required off-street parking spaces in commercial and industrial districts shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles.
- F. Calculating Space.**
1. The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent, except when floor plans are submitted that identify net usable floor area of the building exclusive of ancillary floor areas that do not generate parking demand (e.g., stair wells, hallways, restrooms, closets, utility rooms).
 2. When determining the number of off-street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.
 3. In gymnasiums, places of worship and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four (24) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements.
 4. Except as provided for under joint parking and shopping centers, should a building contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required. Warehouse area associated with retail uses shall have parking requirements calculated separately from the retail requirements.

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G. Access and Driveway Design.

1. Collector/Minor Arterial Street Access. Access to any street shown as a collector or arterial roadway on the City's Comprehensive Plan shall require review and comment by the affected agency (County Highway Engineer or MnDOT) and City. This review shall be required prior to the issuance of any building permits. The County or City Engineer shall determine the appropriate location, size and design of each access drive and may limit the number of access drives in the interest of public safety and efficient traffic flow.
2. Street/Alley Access. Except in the case of single, two family and townhouse dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single-family detached and single-family attached dwellings, parking area design which requires backing into the public street is prohibited.
3. MnDOT Highway Access. A MnDOT permit is required to create, modify or to change an access to a State highway.
4. Curb Cut/Driveway Access Location.
 - a. No residential curb cut/driveway access shall be located less than 30 feet from the intersection of two (2) or more local street rights-of-way. Minimum distance from an intersection for commercial uses shall be 60 feet. This distance shall be measured from the intersection of lot lines. Curb cut/driveway access setbacks from the intersection of streets with higher functional classifications shall be consistent with the recommendations of the Comprehensive Plan and require approval by the City Engineer.
 - b. Street functional classification shall be defined by the City's Comprehensive Plan.
 - c. The setback measurement shall be measured from the edge of the street right-of-way to the nearest edge of the curb cut.
 - d. Driveways onto arterials and major collectors shall be prohibited where alternative street access is available. For existing lots of record, where alternative access is not available, direct access onto arterial and major collectors may be permitted, provided a Sketch Plan is submitted for review and approval of the City Engineer. Approval is also subject to the provisions of this Ordinance.
5. Residential uses in residential zoning districts may construct driveways and parking areas up to the property line but shall not encroach within drainage and utility easements.
6. Non-residential uses in residential Zoning Districts and uses in all other Zoning Districts, driveways and parking stalls shall be set back a minimum of three (3) feet from side and rear property lines. The City may allow an exception to the required setback to accommodate a shared driveway along a common property line, provided the following conditions are met:
 - a. Access easements are established and recorded over the shared driveway in favor of each affected property owner.
 - b. A maintenance agreement between the property owners is established and recorded for the shared driveway.
7. Each lot and parcel shall be entitled to at least one (1) curb cut. Lots and parcels shall be allowed one (1) curb cut access for each 125 feet of street frontage. Corner lots and parcels are allowed one (1) curb cut access plus one (1) additional curb cut access for frontages over 125 feet.
8. Curb Cut/Driveway Width. No curb cut shall exceed 30 feet in width as measured at the street right-of-way line. Commercial and Industrial properties requiring larger curb cuts to accommodate truck turning radii shall be allowed to have curb cuts up to 36 feet in width. Access to a collector or arterial roadway shall require review and approval by the City Engineer and any other affected agency.

H. Parking Surface Design Standards.

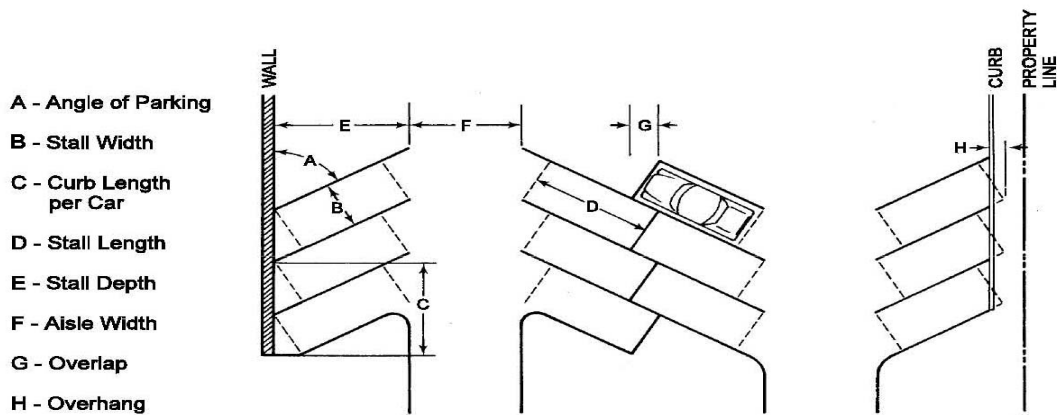
1. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the standards established in the Table [515-4-12.1] and Figure [515-4-12.1] as follows:

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Table 515-4-12.1: Parking Area Standards.

Angle of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Length (D)	Stall Depth Wall to Aisle (E)	Stall Depth Interlock to Aisle	Aisle One Way (F)	Aisle Width Two Way (F)
90°	10' 0"	10' 0"	18' 0"	18' 0"	18' 0"	24' 0"	24' 0"
75°	10' 0"	9' 6"	18' 0"	20' 8"	19' 10"	21' 6"	23' 0"
60°	10' 0"	10' 5"	18' 0"	21' 0"	19' 10"	18' 0"	22' 0"
45°	10' 0"	12' 9"	18' 0"	19' 10"	17' 10"	15' 0"	22' 0"
0°	10' 0"	22' 0"	22' 0"	9' 0"	9' 0"	12' 0"	24' 0"

Figure 515-4-12.1: Parking Area Diagram.



2. **Semi-Tractor Trailer Parking.** Semi-tractor trailer parking shall be in stalls designated for such parking in terms of width and length. Parking of semis lengthwise across standard parking stalls shall be prohibited.
3. **Within Buildings.** The off-street parking requirements may be furnished by providing a space so designed within the principal building or one (1) structure attached thereto. No building permit shall be issued to convert said parking building into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Ordinance.
4. **Grade Elevation.** Excepting driveways for single-family detached and duplex dwellings, the grade elevation of a parking area shall not exceed five (5) percent.
5. **Surfacing.**
 - a. *One- and two-family residential parking surface requirements.* An improved parking surface for residential parking in all residential districts except RL-1 and RL-2 includes concrete, bituminous (pervious or impervious), pavers (pervious or impervious), brick, Class V, pea gravel and stones. Class V, pea gravel, stone, and grass are permitted unimproved surfaces for residential uses as described in this Section.
 - i. No more than forty (40) percent of a property can be improved parking surfaces.
 - ii. Parking is permitted on an improved and unimproved surface in the rear yard.

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- iii. The width of a garage plus an additional forty (40) percent of the width of the garage can be surfaced for a driveway in the front and side/corner yards.
- iv. Parking in front and side street yards is allowed on concrete, bituminous and pavers/brick. Material such as Class V, rocks, pea gravel and stone are not allowed.
- v. A driveway without a garage shall extend into the yard alongside a dwelling twenty-four (24) feet.
- vi. Parking along an interior side of a house is permitted on an improved surface.
- b. *Multiple family and non-residential parking surface requirements.* All areas intended to be utilized for parking space and driveways shall be surfaced with concrete, bituminous, and pavers/brick. The City may allow up to twenty-five (25) percent of required parking stalls or one hundred (100) percent of seasonal or overflow parking in excess of that required to be provided as green parking with a turf surface which is supported by a City approved parking lot sub-base and turf guard fabric.
 - i. Plans for surfacing and drainage of driveways and stalls for ten (10) or more vehicles shall be submitted to the City Engineer for review and the final plans shall be subject to the City Engineer's written approval.
 - ii. Plans for surfacing and drainage of driveways shall be reviewed and approved by the Zoning Administrator prior to issuance of a building permit. Said surfacing shall be completed within one (1) year following the date of building occupancy permit.
- 6. Striping. Except for single, two family or townhouses, all parking stalls shall be marked with white or yellow painted lines not less than four (4) inches wide.
- 7. Lighting. Any lighting used to illuminate an off-street parking area shall be arranged as to reflect the light away from the adjoining property. All exterior lighting shall comply with Section [515-4-8] of this Ordinance.
- 8. Cart Storage. Retail commercial uses that have customer service carts shall be required to provide ample space for the storage of carts within off-street parking areas, subject to the approval of the Zoning Administrator. The need and specific amount of required cart storage space shall be determined as part of the Site Plan review. When required, cart storage areas shall not occupy required off-street parking space, shall be clearly delineated, and shall include facilities for cart confinement.
- I. **Maintenance.** It shall be the joint responsibility of the operator and owner of the principal use, uses and/or buildings to maintain, in a neat and clean manner, the parking space, access ways, landscaping and required screening.
- J. **Ownership.**
 - 1. Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Sections [515-3-30] of this Ordinance.
- K. **Number of Spaces Required.** The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth.
 - 1. Auto, Boat, Trailer, Farm Equipment and Other Outdoor Sales Lots. One (1) space per four hundred (400) square feet gross sales and office floor area and of the building plus one (1) space per each two thousand (2,000) square feet of gross outdoor sales lot area.
 - 2. Auto Repair. Two (2) spaces per serving bay; the service bay is not a parking space, plus one (1) for each employee on the maximum shift.
 - 3. Boarding House. At least one and one-half (1½) parking spaces per boarding room.
 - 4. Bowling Alleys. Five (5) spaces for each alley plus additional spaces for related uses.
 - 5. Car Washes (Drive Through and Self Service). One (1) space per employee plus: Drive through: Six (6) stacking spaces. Self-service: One (1) stacking space per wash bay.

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6. Places of Worship. At least one (1) parking space for each four (4) seats based on the design capacity of the main assembly hall, plus one (1) space for each church employee. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Ordinance.
7. Community Centers, Libraries, Private Clubs, Lodges, Museums, Art Galleries. One (1) space for each three hundred (300) square feet of floor area in the principal structure.
8. Contractors' Offices, Shops and Yards. One (1) per 1,000 square feet of shop area or warehousing, plus one (1) per 300 square feet of office space.
9. Day Care Facilities.
 - a. Day care facilities serving fourteen (14) or fewer persons. In addition to residential parking requirements, one (1) space per seven (7) children capacity.
 - b. All other day care facilities. One (1) space per teacher on the largest shift, plus one (1) space per ten (10) students/children based on maximum capacity of the facility.
10. Elderly (Senior Citizen) Housing. Reservation of area equal to one (1) parking space per unit. Initial development is, however, required of only one-half (1/2) space per unit and said number of spaces can continue until such time as the City Council considers a need for additional parking spaces has been demonstrated.
11. Financial Institutions, Banks, Savings and Loan. Four (4) spaces for every 1,000 square feet.
12. Funeral Undertaking Establishments. At least 20 parking spaces for each chapel or parlor, plus one (1) parking space for each funeral home vehicle. Drive aisle space shall also be provided off the street for making up a funeral procession.
13. Furniture Store/Household Appliances. One (1) space per 400 square feet of gross sales floor area. One (1) space per 1,500 square feet of warehousing.
14. Garden Supply Stores, Building Material Sales in Structures. Eight (8) off-street parking spaces, plus one (1) additional space for 800 square feet of floor area over 1,000 square feet.
15. Golf Courses. Four (4) spaces per hole, plus fifty (50) percent of the requirements for any other associated use.
16. Golf Driving Ranges, Miniature Golf Courses and Other Outdoor Commercial Recreational Uses. Ten (10) off-street parking spaces plus one (1) for each two hundred (200) square feet of activity area.
17. Health Clubs. One (1) space per two (2) exercise stations (e.g., strength machine or cardiovascular) plus one (1) space per employee on the largest shift plus additional parking for ancillary uses (e.g., gymnasiums, auditoriums, offices, restaurants).
18. Hospitals. Three (3) spaces per bed.
19. Manufacturing Facilities. One (1) space for every 800 square feet of gross floor area, plus one (1) space for every company owned vehicle.
20. Motels and Hotels. One (1) space per each rental room/suite plus one (1) space for each eight (8) units, and one (1) space for each employee on any shift.
21. Motor Fuel Stations. At least four (4) off-street parking spaces plus one (1) space for each employee on duty. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this Ordinance.
22. Office Buildings, Animal Hospitals and Clinics, Professional Offices and Medical Clinics. One (1) space for every 200 square feet of floor area.
23. Sales Lots. Ten (10) spaces or one (1) per 2,000 square feet gross land area devoted to sales lot, whichever is larger.

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24. Racquetball, Handball and Tennis Courts, Commercial. Not less than six (6) spaces per each court.
 25. Rest Home, Nursing Home, Convalescent Center, or Institution. One (1) space for each six (6) beds based upon maximum design capacity, plus one (1) space for each two (2) employees.
 26. Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On-Sale Nightclubs. One (1) space per 40 square feet of dining or bar area and one (1) space per 80 square feet of kitchen area.
 27. Restaurants, Fast Food. Fifteen (15) spaces per 1,000 square feet of gross floor area.
 28. Retail Sales and Service Business with Fifty (50) Percent or More of Gross Floor Area Devoted to Storage, Warehouses and/or Industry. At least eight (8) spaces or one (1) space per 200 square feet devoted to public sales or service, plus one (1) space per 500 square feet of storage area.
 29. Retail Stores and Service Establishments. At least one (1) off-street parking space per 200 square feet of floor area.
 30. Schools: Colleges and Universities. At least one (1) parking space for each two (2) students based on the design capacity plus one (1) space for each classroom. Auditorium or event space shall be subject to separate, additional calculations.
 31. Shopping Centers. Five and one half (5 ½) spaces per 1,000 square feet of gross leasable floor area (exclusive of common areas).
 32. Single Family, Duplex, and Accessory Apartments. Two (2) spaces per unit.
 33. Theaters, Civic Centers, Auditoriums, Stadiums, Sports Arenas or Similar Uses. One (1) space for each four (4) seats plus one space for each two (2) employees.
 34. Attached Single-Family Dwellings, Multi-Family and Manufactured Homes within Manufactured Home Parks. At least two and one-fourth (2 ¼) rent-free spaces per unit. In projects involving eight (8) or more units, the City may require additional clustered guest parking spaces based upon calculation of required demand.
 35. Warehousing, Storage of Handling of Bulk Goods. That space which is solely used as office shall comply with the office use requirements and one (1) space per 1,500 square feet of floor area, and one (1) space for each company owned truck (if not stored inside principal building) or one (1) space for each employee, whichever is greater.
 36. Other Uses. Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council upon recommendation by the Planning Commission. Factors to be considered in such determination shall include (without limitation) the national parking standards for size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.
- L. **Parking Deferment.** The Planning Commission may allow a reduction in the number of required parking stalls for commercial, industrial, and public/semi-public uses provided that:
1. The applicant demonstrates that the proposed use will have a peak parking demand less than the required parking as defined in [K.] of this Section. Factors to be considered when reviewing the proposed parking demand shall include, but not be limited to:
 - a. Size of building.
 - b. Type of use.
 - c. Number of employees.
 - d. Projected volume and turnover of customer traffic.
 - e. Projected frequency and volume of delivery or service vehicles.
 - f. Number of company-owned vehicles.

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- g. Storage of vehicles on site.
 - 2. In no case shall the amount of parking provided be less than one-half (1/2) of the amount of parking required by this Ordinance.
 - 3. The site has sufficient property under the same ownership to accommodate the expansion of the parking facilities to meet the minimum requirements of this Ordinance if the parking demand exceeds on site supply. A proof of Parking Plan is submitted for City approval that meets the following conditions:
 - a. A Parking Plan drawn to scale for the property is submitted with the Sketch Plan and indicates that the site complies with the total parking requirements stated above and with the Parking Lot Design to the standards required by this Ordinance.
 - b. The proof of parking area is defined as that portion of the site which is not paved, but is suitably landscaped and is capable of containing the amount of parking equal to the difference between the total amount of required parking and the amount of parking required to be paved to meet the requirements of this Ordinance.
 - c. The proof of parking area shall be clearly delineated on the Parking Plan for the site.
 - d. The paved portion of the parking area shall comply with this Sections.
 - e. The proof of parking area is not used to satisfy any other landscaping, setback, or other requirement of this Ordinance and is not located in an area occupied by a building or an easement.
 - 4. The property owner is responsible for informing any subsequent owner of the proof of parking area and parking status of the property and shall record said provision with the County Recorder.
 - 5. On-site parking shall only occur in areas designed and constructed for parking in accordance with this Ordinance.
 - 6. The applicant and City enter into a development agreement, to be recorded against the subject property, which includes a clause requiring the owner to install the additional parking stalls, upon a finding of the City that such additional parking stalls are necessary to accommodate the use.
 - 7. A change of use will necessitate compliance with the applicable Zoning Ordinance standard for parking.
- M. Joint Facilities.** Required parking facilities serving two or more uses may be located on the same lot or in the same structure provided that the total number of parking spaces furnished shall be not less than the sum of the separate requirements for each use, during any peak hour parking period when the parking facility is utilized at the same time by two or more uses. Conditions required for joint use:
- 1. The proposed joint parking space is within the distance required under [M.] of this Section of the uses it will serve.
 - 2. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
 - 3. A properly drawn legal document approved by the City Council, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk.
- N. Off-Site Parking.** Any off-site parking which is used to meet the requirements of this Ordinance shall be subject to the following conditions:
- 1. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Ordinance.
 - 2. Reasonable public access from off-site parking facilities to the use being served shall be provided.
 - 3. The site used for meeting the off-site parking requirements of this Ordinance shall be under the same ownership as to the principal use being served or under public ownership.

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4. Off-site parking for multiple family dwellings shall not be located more than 400 feet from any normally used entrance of the principal building(s) served.
5. Off-site parking for non-residential uses shall not be located more than 800 feet from the main entrance of the principal building(s) being served. No more than one (1) main entrance shall be recognized for each principal building.
6. Any use which depends upon off-site parking to meet the requirements of this Ordinance shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

515-4-13 Off-street Loading.

- A. **Purpose and Intent.** The regulation of off-street loading areas is to alleviate or prevent congestion of the public right-of-way to promote the safety and welfare of the public by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the appropriate utilization of various parcels of land or structures.
- B. **Location.**
 1. All required loading areas shall be off-street and shall be located on the same lot as the building or use to be served. A loading area shall be located at least 50 feet from the intersection of two (2) street rights-of-way and at least 50 feet from a residential district unless within a building.
 2. Loading areas shall not occupy areas within the required front yard setbacks.
 3. Each loading area shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic on both on- and off-site.
 4. Loading areas located at the front or side of a building on a corner lot shall meet the following conditions:
 5. Loading areas shall not conflict with pedestrian movement.
 6. Loading areas shall not obstruct the view of the public right-of-way from off-street parking access.
 7. Loading areas shall comply with all other requirements of this Ordinance.
- C. **Surfacing.** All loading areas and access ways shall be improved with a bituminous surface or equally durable material to control the dust and drainage approved by the City Engineer.
- D. **Accessory Use, Parking and Storage.** Any space allocated as a loading area or maneuvering area must comply with the terms of this Ordinance and shall not be used for the storage of goods, inoperable vehicles or snow, or be included as a part of the space requirements necessary to meet the off-street parking area requirements.
- E. **Screening.** All loading areas, except in the case of multiple family dwellings, shall be screened and landscaped from abutting and surrounding residential uses and the public right-of-way in compliance with Section [515-4-9] of this Ordinance.
- F. **Size.** Unless otherwise specified in this Ordinance, a required loading area shall be not less than twelve (12) feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space. Additional loading areas shall be not less than twelve (12) feet in width and twenty-five (25) feet in length.

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515-5 RULES AND ADMINISTRATION.

515-5-1 Zoning Administrator Duties and City Staff. The City Council shall appoint one, or multiple, Zoning Administrator(s). The appointed Zoning Administrator shall have the authority to request assistance from other City Staff as needed to effectively implement this Ordinance. The Zoning Administrator shall enforce this Ordinance and shall perform the following duties:

- A. Maintain permanent and current records of this Ordinance, including but not limited to maps, amendments, variances and conditional uses.
- B. Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
- C. Institute in the name of the City, any appropriate actions or proceedings against a violator as provided for.
- D. Serve as an ex-officio non-voting member of the Planning Commission.
- E. The Zoning Administrator shall work with any applicable City Staff, to enforce the provisions of this Ordinance.
- F. If the provisions of this Ordinance are being violated, the Zoning Administrator shall notify in writing the property owner or property owner and tenant if rental property for such violations pursuant to Section [515-5-11]. The City shall order discontinuance of illegal use of the land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Section to ensure compliance with or to prevent violation of provisions of this Ordinance.

G. Certificates of Zoning Compliance Required.

- 1. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- 2. Building permits, Conditional Use Permits, or Certificates of Zoning Compliance shall be issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.
- 3. Any use, arrangement, or construction of a structure without an approved Variance shall be deemed a violation of this Ordinance, and punishable as provided by Section [515-5-11] of this Ordinance.
- 4. The Building Official, in consultation with the Zoning Administrator, may refuse to issue a Certificate of Occupancy for any building or structure so long as any violations of this Ordinance exist on the premises or there remains any unsatisfied conditions related to any permit or Variance applicable to the premises.
- 5. Zoning Coordination. Any Zoning District amendment on land adjacent to or across a public right-of-way from an adjoining county or community shall be referred to the governing unit of the adjacent community for review and comment prior to action by the City Council granting or denying the zoning district classification change. A period of at least ten (10) days shall be provided for receipt of comments; such comments shall be considered as advisory only.

H. Land Use Application Procedures Summary.

- 1. The following Table 515-5-1.1 is provided to summarize and identify the land use application and associated process for each application as described in this Section. The requirements and standards for each land use application are provided within the following Sections and are referenced in the Table. The decision-making body review identifies the minimum requirements for processing a land use application. The City Council retains the ability to request additional review from any of its recommending bodies.

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Table 515-5-1.1. Land Use Application Review Procedures.

Land Application Review Procedures						
Procedure	Section Reference	Public Hearing	MN State Statute 15.99	If City Council is checked, they are the final decision-making body.		
Land Use Application				Staff	Planning Commission	City Council
Zoning Amendment (Text or Map)	515-5-6	X	X	X	X	X
Comprehensive Plan Amendment (Text or Map)	515-5-6	X	X	X	X	X
Variance	515-5-4	X	X	X	X	X
Appeal to a Variance or Land Use Decision	515-5-11.D.			X		X
Conditional Use	515-5-2	X	X	X	X	X
Interim Use	515-5-3	X	X	X	X	X
Site Plan Review ¹	515-5-5		X	X	X	X
Planned Unit Development (PUD)						
• Pre-Application Meeting	515-5-7.J.			X		
• General Concept Plan	515-5-7.J-K			X	X	X
• Development Stage Plan	515-5-7.M	X	X	X	X	X
• Final Plan	515-5-7.N		X	X	X	X
Administrative Permit	515-5-9		X	X		
Sketch Plan ²	515-5-9		X	X		
Environmental Review ³	NA			X		X

¹ Site Plan Review subject to public hearing, Planning Commission and City Council review when required as part of another Land Use Application process.

² Sketch Plan subject to public hearing, Planning Commission and City Council review when required as part of another Land Use Application process.

³ Environmental Review must follow Minnesota State Statutes regarding process and review timeline. This City hereby incorporates the procedures and requirements by reference.

I. Other Agency Review and Review Timelines.

1. Minnesota State Statutory Review Procedures for Land Use Applications. As identified in Table [515-5-1.1] of this Section, certain land use applications are subject to the rules of procedure and deadlines for action as established within Minnesota State Statutes. The City Council shall follow the rules and requirements as

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established by Minnesota State Statute which may be updated from time to time. The following summary of current statutory requirements is provided.

- a. *Minnesota State Statute 15.99.* Pursuant to Minnesota Statutes 15.99, a land use applicant shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the Zoning Administrator is hereby authorized to extend the 60-day time limit by a time period not to exceed 60 additional days, provided that written notice of such extension is provided to the applicant before the end of the initial 60-day period. The reason for the extension must be provided in the extension letter and must include the date through which the extension is made. The applicant may also request an extension to the review timeline.
- b. *Minnesota State Statutes 462.358.* Certain land use applications also include the requirement that a preliminary and final plat be prepared. For applications including any plat process, Minnesota State Statutes 462.358 shall govern the review timeline. An application for a preliminary plat shall be approved or denied within 120 days from the date of a complete submission unless a time waiver is granted by the applicant. A preliminary plat may be approved with conditions or denied with written findings. An application for final plat, shall be approved or denied within 60 days from the date of the complete submission unless a time waiver is granted by the applicant. The application shall be in substantial compliance with the approved preliminary plat, including any modifications required as a condition of preliminary plat approval.

515-5-2 Conditional Use Permits.

- A. **Purpose and Intent.** The purpose of the Conditional Use Permit is to provide the City of Brainerd with the discretion and flexibility to achieve the goals and objectives of the comprehensive plan and to determine, what, if any, uses other than those specifically permitted may be suitable within the City's Zoning Districts.
 1. Conditional Uses are listed on the Appendix A: Table of Uses. Only Conditional Uses identified on the Table shall be considered and only applications that support the goals and objectives of the Comprehensive Plan; protect and enhance the City's character, serve, in a general way the needs of the citizens; and do not negatively affect the general welfare, public health and safety of the community.
 2. In determining whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic to and from the premises, or effects on any adjoining roads and all other factors the City shall deem appropriate for consideration.
 3. If a use is deemed suitable, reasonable conditions may be applied to issuance of a Conditional Use Permit, and periodic review of said permit may be required.
- B. **Procedure.**
 1. Request for Conditional Use Permits, as provided within this Section shall be filed with the City on an official application form. Applications shall be accompanied by a fee as required by this Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator.
 2. Proof of Ownership or Authorization. The applicant shall supply proof of ownership or equitable ownership interest, a legal description and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested Conditional Use Permit.
 3. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City at least ten (10) days prior to the hearing. Notice of the hearing shall also be mailed to owners of property located within a three hundred and fifty (350) foot radius of the outside of the land to which the conditional use will be applicable. The notice shall include a description of the land and the proposed conditional use. Failure of a property owner to receive such a notification shall not invalidate the proceedings.

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4. A copy of the application for the proposed Conditional Use Permit within a Flood Zone shall be mailed to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board so that the Commissioner and Board will receive at least ten (10) days notice of the hearing. Violations to send such notice are punishable under Section [515-5-11].
5. The Zoning Administrator may request the appropriate staff persons to prepare technical reports where applicable and provide general assistance in preparing a recommendation on the request.
6. Criteria for Granting Conditional Use Permits. In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants or surrounding lands. Among other things, the City Council shall make the following findings where applicable.
 - a. The proposed use conforms to the Zoning District and is a permitted Conditional Use identified on the Appendix A: Table of Uses.
 - b. The proposed use meets the regulations and standards established in this Ordinance
 - c. The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
 - d. The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
 - e. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
 - f. The proposed use shall organize vehicular access and parking to minimize traffic congestion in a residential neighborhood.
 - g. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.
7. Conditions. In reviewing applications for conditional use permits, the City may attach whatever reasonable conditions are deemed necessary to mitigate anticipated adverse impacts associated with the proposed use, to protect the value of property within the Zoning District, and to achieve the goals of the City's Comprehensive Plan. In determining such conditions, special consideration shall be given to protecting nearby properties from objectionable views, noise, traffic, and other characteristics associated with such uses. Such conditions may include, but are not limited to, the following:
 - a. Increasing the required lot size or yard setback dimension.
 - b. Limiting the height, size or location of buildings.
 - c. Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
 - d. Regulating the street width.
 - e. Increasing the number of required off-street parking spaces.
 - f. Limiting the number, size, location or lighting of signs.
 - g. Requiring a berm, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - h. Requiring dedication of some open or green space.
 - i. Regulating the appearance of the facilities or site so that they are harmonious with the neighborhood and City.
 - j. The following may be added as conditions to properties in a Flood Zone:

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- i. Modification of waste treatment and water supply facilities.
 - ii. Limitations on period of use, occupancy, and operation.
 - iii. Imposition of operational controls, sureties, and deed restrictions.
 - iv. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - v. Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.
- k. A copy of all decisions granting conditional uses within the Flood Zone shall be forwarded by mail to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board within ten (10) days of such action. Violation to send such notice is punishable under Section [515-5-11].
8. Amendments. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate.
- a. An amended Conditional Use Permit application shall be administered in a manner similar to that required for a new Conditional Use Permit, amended Conditional Use Permits shall include requests for changes in conditions, and as otherwise described in this Ordinance.
 - b. Whenever an application for a Conditional Use Permit has been considered and denied by the City Council, a similar application for the Conditional Use Permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.
9. Review and Enforcement. If a periodic review is included as a condition by which a Conditional Use Permit is granted, the Conditional Use Permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of the land having a Conditional Use Permit shall not be required to pay a fee for said review. A waiver from a public hearing for annual review of a Conditional Use Permit may be granted at the discretion of the City Council.
- a. In the event that the applicant violates any of the conditions set forth in this permit, the City Council shall have the authority to revoke the Conditional Use Permit outlined as follows:
 - b. The City shall conduct a public hearing to consider the revocation of a Conditional Use Permit. Notifications shall be distributed and published according to Subsection [B.3]. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council.
 - c. In considering revocation, the Planning Commission and the City Council shall consider compliance with the approved conditions of the Conditional Use Permit.
 - d. Following a vote by the City Council to revoke the Conditional Use Permit, the City shall file a certified copy thereof including a legal description of the property with the County Recorder and/or Registrar of Title.
 - e. Conditional Use Permits issued shall be recorded in the office of the County Recorder as per Minnesota Statutes.

C. Application.

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1. An applicant applying for a Conditional Use Permit for an accessory use to a single-family detached or single-family attached property shall fill out and submit to the Zoning Administrator a Conditional Use Permit application form and required filing fee. This form shall contain, but not be limited to, the following data unless waived by the Zoning Administrator:
 - a. Detailed legal description of the property.
 - b. Site Plan showing location of all buildings and structures with dimensions and setbacks.
 - c. Planting plan showing pathway system, width and material, screening fences with detail, lighting system, recreational feature, if any.
 - d. Landscape plan showing location, species and size of all plant material.
 - e. Drainage plan indicating catch basins and underground improvement.
 - f. Utility systems for sanitary sewer, water, gas, telephone and electric which shall all be underground for new construction.
 - g. Sites adjacent to MnDOT right-of-way shall identify the right-of-way location, dimension from the centerline of the highway to the MnDOT right-of-way line, along with existing and proposed ingress and egress.
 - h. Sites adjacent to MnDOT right-of-way shall be submitted to MnDOT for review and comment.
 - i. Off-street parking, driveways and access plan.
 - j. Off-street loading plan, if any, is necessary.
 - k. Plan for adjustment to existing rights-of-way, easements, utilities and new dedications.
 - l. Architectural plans showing elevations, entrances, heights, floor plans and material to be used on the exterior.
 - m. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
2. The applicant applying for a Conditional Use Permit, whether for a principal or accessory use, within a commercial or industrial Zoning District and for any multi-family properties shall fill out and submit to the Zoning Administrator a Conditional Use Permit application form and required filing fee.
3. Submission Materials. The submission for a Conditional Use Permit shall include the following:
 - a. Narrative describing the proposed use. The narrative should include the following, as applicable to the application:
 - i. Proposed Use
 - ii. Description of business or activity to be conducted.
 - iii. Number of employees.
 - iv. Hours of operation.
 - b. Site Plan as described in Section [515-5-5].
 - i. The Zoning Administrator shall have the authority to except any of the submission materials identified in Section [515-5-5] Information Required. The Zoning Administrator shall evaluate the proposed use and proposed improvements to determine what materials are necessary to process the proposed application.

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D. Cancellation of Conditional Use Permits.

1. Unless otherwise specified by the City Council at the time it is authorized, a Conditional Use Permit shall be null and void and expire if the applicant fails to utilize the Conditional Use Permit, or fails to fulfill all required conditions attached thereto within one (1) year from the date of its authorization, unless a petition for an extension of time in which to complete or utilize the permit has been granted by the Zoning Administrator provided that:
 - a. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the executed Conditional Use Permit.
 - b. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the use or activity permitted in the Conditional Use Permit.
 - c. A maximum of one (1) administrative extension by the Zoning Administrator shall be granted.
 - d. The extension shall not exceed ninety (90) days from the initial Conditional Use Permit expiration date.
 - e. There shall be no charge for the filing of a petition for an administrative extension.
2. If an extension is requested exceeding 90 days, the request must be reviewed and approved by the City Council. Such extension may be granted if:
 - a. The conditions described in subsection [1.a.-c.] above are satisfied.
 - b. The extension shall not exceed one (1) year from the initial Conditional Use Permit expiration date.
 - c. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

E. Performance Security.

1. Except in the case of non-income producing residential property (excluding relocated structures), upon approval of a Conditional Use Permit the City shall be provided, where deemed necessary by the City Council, with a performance security as approved by the City Attorney prior to the issuing of a Building Permit or initiation of work on the proposed improvements or development. Said security shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the Conditional Use Permit and the Ordinances of the City.
2. The security shall be in the amount recommended by the Zoning Administrator based on estimated costs of labor and materials for the proposed improvements or development. Said project may be handled in stages upon the discretion of the Zoning Administrator.
3. The City shall hold the security until completion of the proposed improvements or development and a Certificate of Occupancy indicating compliance with the Conditional Use Permit and Ordinances of the City has been issued by the Building Official.
4. Failure to comply with the conditions of the Conditional Use Permit or the Ordinances of the City shall result in forfeiture of the security in whole or in part depending upon the degree of non-compliance and at the discretion of the City Council.
5. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a Performance Agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

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515-5-3 Interim Use Permits

A. **Purpose and Intent.** The purpose and intent of allowing interim uses is:

1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the City Council, but that with development or redevelopment, may not be acceptable in the future or may be replaced in the future by a permitted or conditional use allowed within the respective Zoning District.
3. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
4. To allow a use that is specific to a user and that is best managed through a time performance standard.

B. **Procedure.**

1. Existing Uses. Uses defined as Interim Uses which presently exist as a legal use or a legal non-conforming use within a respective Zoning District shall be considered approved and shall be treated as allowed uses.
2. New Uses. Uses defined as Interim Uses which do not presently exist within a respective Zoning District shall be processed according to the standards and procedures for a Conditional Use Permit as established by Section [515-5-2] of this Ordinance.

C. **General Standards.** An Interim Use shall comply with the following:

1. Existing Uses. Shall be in conformance with zoning and building standards in effect at the time of initial construction and development and shall continue to be governed by such regulations in the future.
2. New Uses:
 - a. Meets the standards of a Conditional Use Permit set forth in Section [515-5-2] of this Ordinance.
 - b. Conforms to the applicable performance standards of this Ordinance.
 - c. The use is allowed as an Interim Use on the Table of Uses.
 - d. The date or event that will terminate the use can be identified with certainty.
 - e. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
 - f. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

D. **Termination.** An interim use shall terminate when any of the following events first occurs:

1. The date stated in the permit.
2. Upon violation of conditions under which the permit was issued.
3. Upon change in the City's zoning regulations which render the use non-conforming.
4. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective Zoning District.

E. **Cancellation of Interim Use Permits.** Unless otherwise specified by the City Council at the time it is authorized, an Interim Use Permit shall be null and void and expire if the applicant fails to utilize such Interim Use Permit and fulfill each and every condition attached thereto within one (1) year from the date of its authorization unless a petition for an extension of time in which to complete or utilize the permit has been granted by the Zoning Administrator.

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515-5-4 Variances

A. **Purpose and Intent.** The purpose of this Section is to provide for deviations from the literal provisions of this Ordinance in instances where their strict application and enforcement would cause practical difficulty to the individual property under consideration.

B. **General Provisions and Evaluation Criteria.**

1. Board of Appeals and Adjustments. The City Council shall be the Board of Appeals and the Board of Appeals and Adjustments for this City, and as provided by Minnesota Statute Section 462.354, Subd. 2 shall have the powers granted under Minnesota Statute Section 462.357, Subd. 6, as they may be amended from time to time.
2. Pursuant to Minnesota Statute Section 462.357, Subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this Zoning Code. A variance is a modification or variation of the provisions of this Zoning Code as applied to a specific piece of property.
3. Variances shall only be permitted:
 - a. When they are in harmony with the general purposes and intent of the ordinance and
 - b. When the variances are consistent with the Comprehensive Plan
 - c. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.
4. "Practical Difficulties", as used in connection with the granting of a variance means that the property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
 - a. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - b. The variance, if granted, will not alter the essential character of the locality.
 - c. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
5. Variances shall be granted for earth sheltered construction as defined in Section 216C.06, Subdivision 14, when in harmony with the Ordinance. The Board of Appeals and Adjustments may not permit as a variance any use that is not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located. The Board may permit as a variance the temporary use of a one family dwelling as a two-family dwelling. The Board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

C. **Procedure.**

1. **Proof of Ownership or Authorization.** The applicant shall supply proof of ownership or equitable ownership interest and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested rezoning.
2. The person applying for a Variance shall fill out and submit to the Zoning Administrator a Variance request form. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator.
3. The Zoning Administrator shall refer the application to the Planning Commission for review.
4. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City Council at least ten (10) days prior to the hearing. Notice of the hearing shall also be mailed to owners of property located within three hundred fifty

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(350) feet of the outside of the land to which the Variance will be applicable. The notice shall include a description of the land and the proposed Variance. A copy of the application for the proposed Variance shall be mailed to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board so that the Commissioner and Board will receive at least ten (10) days notice of the hearing (this only applies to applications in the Flood Zone).

5. The City Council, after receipt of the report of the Planning Commission, may grant or deny the Variance pursuant to criteria herein established. A copy of the City Council's decision and Findings-of-Fact shall be sent to the applicant. A copy of all decisions granting Variances within the Flood Zone shall be forwarded by mail to the Commissioner of Natural Resources and where applicable the Mississippi Headwaters Board within ten (10) days of such action.
6. Whenever an application for a Variance has been considered and denied by the City Council, a similar application for a Variance affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, unless a decision to reconsider such matter is made by not less than a majority vote of the full City Council.

D. Lapse of Variance.

1. Unless otherwise specified by the City, if within one (1) year after granting a Variance the use as allowed by the Variance shall not have been initiated or utilized, then such a Variance shall become null and void unless a petition for an extension of time in which to complete or utilize the Variance has been granted by the Zoning Administrator provided that:
2. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the initial Variance request.
3. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the Variance that has been granted.
4. A maximum of one (1) extension shall be granted.
5. The extension shall not exceed ninety (90) days from the initial Variance expiration date.
6. There shall be no charge for the filing of a petition for the extension.
7. If an extension exceeding 90 days is requested, the extension must be approved by the City Council after receiving a recommendation from the Planning Commission and City Staff. The extension may be granted provided that:
 - a. The conditions described in Subsection [D.1-3] above are satisfied.
 - b. The extension shall not exceed one (1) year from the initial Variance approval date.
 - c. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

E. Performance Security.

1. Upon approval of a Variance, the City shall be provided, where deemed necessary by the City Council, with a performance security as approved by the City Attorney prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the Variance and City ordinance provisions.
2. The security shall be in the amount recommended by the Zoning Administrator based on estimated costs of labor and materials for the proposed improvements or development.
3. The City shall hold the security until completion of the proposed improvements or development and a Certificate of Occupancy indicating compliance with the Variance and City Code provisions has been issued by the Building Official.

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4. Failure to comply with the conditions of the Variance or appeal and City Code provisions shall result in forfeiture of the security in whole or in part depending upon the degree of non-compliance and at the discretion of the City Council.
5. Whenever a Performance Guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the Variance. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

515-5-5 Site Plan and/or Building Plan Review

- A. **Purpose and Intent.** The purpose of this Section is to establish a formal Site Plan and Building Plan review procedure, and to provide regulations pertaining to the enforcement of site design and construction standards. An application for Site Plan and/or Building Plan review may accompany a primary land use application or may be initiated as a separate application. When processed as part of a primary land use application no separate fee or application for Site Plan or Building Plan review is required.
- B. **Zoning Administrator Approval.** Any Site Plan and/or Building Plan application accompanying a primary land use application shall follow the review procedures as described in the applicable application. All Site Plan and/or Building Plan Review of multi-family, commercial, industrial or institutional construction shall be subject to the Information Requirements identified in subsection D. The Site Plan and/or Building Plan Review may be administratively approved if no other primary land use applications are applicable.
- C. **Exceptions to Review.** The following may be exempted from some or all of the Site Plan or Building Plan Information Requirements:
 1. New on-site construction of detached single-family or attached single-family residential structures, or uses or structures accessory thereto.
 2. Changes in the use of leasable space in single or multi-tenant buildings where the change of tenant does not intensify the use of such space nor require additional parking or result in an inability to maintain the required performance standards.
 3. Expansion of parking not related to modification, addition or enlargements to the gross floor area of an existing building.
 4. Construction of structures or buildings accessory to a permitted or conditionally permitted use within the respective zoning district when such accessory use is also permitted in said Zoning District.
- D. **Information Requirements.** The applicant applying for a Site and Building Plan approval shall fill out and submit to the Zoning Administrator an application on the official application form. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials as detailed below. Hard copies may be requested by the Zoning Administrator.:
 1. Certificate of Survey prepared by a licensed land surveyor identifying the following:
 - a. Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
 - b. North point indication.
 - c. Existing boundaries with lot dimension and lot area.
 - d. Existing buildings, structures and improvements.
 - e. Easements of record.
 - f. Delineated wetland boundary, to include the OHWL of any lakes or DNR waters, if applicable.
 - g. All encroachments.
 - h. Legal description.

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2. Site Plan using the current Certificate of Survey as a base depicting the following:

- a. Name of project or development.
- b. Name and address of developer and/or owner.
- c. Name and address of engineer, architect or designer.
- d. Date of plan preparation and dates of any subsequent revisions.
- e. All proposed improvements, including:
 - i. Required and proposed setbacks.
 - ii. Location, setback and dimensions of all proposed buildings and structures.
 - iii. Location of all buildings and structures within 100-feet of the exterior boundaries of the subject property.
 - iv. Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
 - v. Location and width of all proposed street accesses and driveways.
 - vi. Location and type of all proposed lighting, including fixture details.
 - vii. Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
 - viii. Location of freestanding signs.
 - ix. Location of HVAC equipment whether ground mounted or roof mounted.

f. Grading Plan (using the current Certificate of Survey as a base) depicting the following:

- i. Existing contours at two (2) foot intervals.
- ii. Proposed grade elevations at two (2) foot maximum intervals.
- iii. Drainage plan, including the configuration of drainage areas and calculations.
- iv. Spot elevations.
- v. Surface water ponding and treatment areas.
- vi. Erosion control measures.
- vii. Wetland replacement plan (when applicable).
- viii. Drainage calculations for 2-, 10-, & 100-year storm events.
- ix. Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
- x. Date of plan preparation and dates of any subsequent revisions.

g. Landscaping Plan using the current Certificate of Survey as a base depicting the following:

- i. Planting schedule including symbols, quantities, common and botanical names, sizes of plant materials, root specification (bare root, balled/burlapped, potted, etc.) and special installation instructions.
- ii. Location, type and size of all significant trees to be removed or preserved.
- iii. Location and species of proposed plantings of all species.
- iv. Typical sections with details of fences, walls, and planter boxes.
- v. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.

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- vi. Delineation of both sodded and seeded areas with respective areas measured in square feet.
- vii. Coverage plan for underground irrigation systems, if any.
- viii. Other existing or proposed conditions that could be anticipated to affect landscaping.
- ix. Date of plan preparation and dates of any subsequent revisions.
- h. Photometric Lighting Plan, to include fixture details/cut sheets/drawings and date of plan preparation and dates of any subsequent revisions.
- i. Architectural Plans including:
 - i. Date of plan preparation and dates of any subsequent revisions.
 - ii. Architectural elevations of all principal and accessory buildings and structures (type and materials used in all exterior surfaces).
 - iii. Typical floor plans and typical room plans drawn to scale with a summary of square footage by use or activity.
- j. Utility Plan, including:
 - i. Location, sizing, and type of water and sewer system mains and proposed service connections, hydrants, valves, and manholes; or,
 - ii. Location and size of proposed primary and secondary on-site treatment systems, when allowed (if ISTS is proposed).
 - iii. Storm sewer, catch basins, invert elevation, type of castings and type of materials (refer to Engineering Manual for City standards).
 - iv. Date of plan preparations and dates of any subsequent revisions.
 - v. Estimates of forecasted water consumption.
 - vi. Location of electrical services and any transformers and meters.
- k. Other plans and information as may be required by the Zoning Administrator which may include (but not be limited to) the following:
 - i. Location, type and size (area and height) of all signs to be erected upon the subject property.
 - ii. Vicinity map showing the subject property in relation to nearby highways or major street intersections.
 - iii. Sound source control plan.
 - iv. Fire protection plan.
 - v. Proposed protective covenants or private restrictions.
 - vi. Where landscaping or man-made materials are used to provide screening from adjacent properties, a cross section shall be provided showing the perspective of the site from neighboring properties at the property line elevation.
 - vii. Traffic study.
- E. **Plan Agreements.** Any Site Plan and/or Building Plan officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the Zoning Administrator.
- F. **Enforcement.** The Zoning Administrator shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this Section has been officially documented by The Zoning Administrator.

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515-5-6 Zoning Amendments, Map or Text

A. Amendments to the Zoning Ordinance.

1. The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which time parties with interest and citizens shall have an opportunity to be heard. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City. Any action taken pursuant to this Section shall also be in compliance and accordance with the rules and regulations of the Department of Natural Resources, State of Minnesota, the Federal Emergency Management Agency, and Mississippi Headwaters Board.
2. The Flood Plain designation on the Official Zoning Map shall not be removed from Flood Plain areas unless it can be shown that the designation is in error, or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the Flood Plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.
3. All amendments to the Flood Plain or Flood Fringe Districts of this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

B. Procedure.

1. Initiation. The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the Zoning District boundaries of this Ordinance. The procedural requirements of Sections [515-4-2.B and 515-4-2.D] of this Section shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate or having documented interest therein, within the City may initiate a request to amend the Zoning District and Official Zoning Map boundaries or text of this Ordinance, so as to affect the said real estate.
2. Requests for rezoning (text or map) shall be filed with the City on an official application form. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator.
3. Changes in the Official Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.
4. Proof of Ownership or Authorization. The applicant shall supply proof of ownership or equitable ownership interest, a legal description and as applicable supply documented authorization from the owner(s) of the property in question to proceed with the requested rezoning.
5. Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next regularly scheduled Planning Commission meeting occurring at least ten (10) working days from such date as a notice of the hearing is published in the official newspaper. The Zoning Administrator shall mail the same notice to the owners of the property within three hundred and fifty (350) feet of the outside of the land proposed to be rezoned. The notice shall include the description of the land and the proposed changes in zoning. Failure of a property owner to receive such notification shall not invalidate the proceedings.
6. The mailed notice requirement shall be waived for a city-wide amendment initiated by the Planning Commission or City Council.
7. Upon receiving the request and any report, recommendation and written Findings-of-Fact of the Planning Commission and the Zoning Administrator, the City Council shall have the option to set and hold a public

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hearing if deemed necessary and shall make a recorded and written Findings-of-Fact, and provide these written findings to the applicant.

8. The person making the application shall be notified of the action taken. The Zoning Administrator shall maintain records of amendments to the text and Official Zoning Map of the Ordinance.
9. No application of a property owner for an amendment to the text of the Ordinance or the Zoning Map shall be considered by the Planning Commission within the one (1) year period following a denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
10. The Zoning Administrator may request the appropriate staff persons to prepare technical reports where applicable and provide general assistance in preparing a recommendation on the action.
11. The City Council and the Planning Commission shall consider possible adverse effects of the proposed amendment. Their judgment shall be based upon (but not limited to) the following factors:
 - a. The proposed action's consistency with the specific policies and provisions of the official City Comprehensive Plan.
 - b. The proposed use's compatibility with present and future land uses of the area.
 - c. The proposed use's effect upon the area in which it is proposed.
 - d. Traffic generation of the proposed use in relation to capabilities of streets serving the property.
 - e. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and its potential to overburden the City's service capacity.
 - f. The City Council, the Planning Commission, and the Zoning Administrator shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
 - g. If, upon receiving said reports and recommendations of the Planning Commission, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council will differ from that of the Planning Commission, the City Council may before taking final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular action.
 - h. Approval of a proposed text amendment shall require a majority vote of the City Council.
 - i. Approval of a proposed Zoning Map amendment which changes all or part of the existing classification of a zoning district from Residential to Commercial, Industrial, or Planned Unit Development that allows for commercial or industrial uses shall require a two-thirds (2/3) vote of the City Council.
 - j. The amendment shall not become effective until such time as the City Council approves an Ordinance reflecting said amendment and one (1) week after said Ordinance is published in the official newspaper.

515-5-7 Planned Unit Development – Overlay Zoning District

A. Purpose and Intent.

1. To encourage a more creative and efficient development of land and its improvements than is possible under the strict application of the Base Zoning District requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan for Brainerd and preserving the health, safety, and welfare of the citizens of Brainerd.
2. To allow for a mixture of residential units in an integrated and well-planned area.

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3. To allow for a mixture of commercial, general business or light industrial uses that may include residential uses in a master planned area.
4. To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas.
5. Facilitate the economical provision of streets and public utilities.
6. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.
7. Promotion of a desirable and creative environment that might be prevented through the strict application of the Base Zoning District and/or subdivision regulations of the City.

B. Planned Unit Development (PUD) Zoning Overlay.

1. Rezoning to Planned Unit Development (PUD). A Planned Unit Development (PUD) may include land uses from a variety of Base Zoning Districts, and may include design flexibility related to density, setbacks, building heights, lot area, lot width, etc. Any mixed-use project that does not comply with the dimensional or use standards may utilize the Planned Unit Development (PUD) Overlay Zoning District. All PUD Overlay Zoning Districts must identify the areas where flexibility from the Base Zoning District standards are established. A rezoning for a Planned Unit Development (PUD) shall be processed as outlined in Section [515-5-7] of this Ordinance and as outlined herein.

C. General Requirements. The City may approve the Planned Unit Development (PUD) only if it is found that the development satisfies all of the following standards:

1. The proposed Planned Unit Development (PUD) is in conformance with the Comprehensive Plan for Brainerd. At a minimum, the City must find that:
 - a. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities, which serve or are proposed to serve the area.
 - b. The use is reasonably related to the overall needs of the City and is compatible with the surrounding land use.
 - c. The Planned Unit Development (PUD) is an effective and unified treatment of the development possibilities on the project site and the development plans provide for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.
 - d. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to surrounding uses.
2. The Planned Unit Development (PUD) meets one or more of the following development criteria:
 - a. A minimum of two (2) or more principal structures is proposed.
 - b. The tract is at least two (2) acres in size.
 - c. The use is consistent with the requirements of the Zoning Ordinance.
 - d. The Planned Unit Development (PUD) can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
 - e. Each phase of the proposed development is of sufficient size, composition, and arrangement so that it's construction, marketing, and operation are feasible as a complete unit, and that provision for and construction of dwelling units and common open space are balanced and coordinated. In addition, the total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
 - f. Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the Planned Unit Development (PUD). To evidence this finding, a written statement of financial feasibility, which is accepted by the City, shall be submitted by the applicant.

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- g. One (1) individual has been designated by the property owner(s) to be in control of the development.
- h. The Planned Unit Development (PUD) provides for architectural diversity by way of varied building types and exterior building design.
- 3. Underground Utilities. In any Planned Unit Development (PUD), all utilities, including, but not limited to, telephone, electricity, gas and cable television shall be installed underground.
- 4. Utility Connections.
 - a. *Water Connections.* Where more than one property is served from the same service line, a shut off valve must be located in such a way that each unit's service may be shut off and secured by the City, in addition to the normally supplied shut off at the street.
 - b. *Sewer Connections.* Where more than one (1) unit is served by a sanitary sewer lateral which exceeds 300-feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.
- 5. Roadways, Private.
 - a. *Design.* Private roadways within the project shall have an improved surface to 28 feet or more in width and shall be so designed as to permit the City fire trucks to provide protection to each building.
- 6. Parking. No portion of the required private road system may be used in calculating required off-street parking space or be used for parking.
- 7. Landscaping. In any Planned Unit Development (PUD), landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the Planned Unit Development plan.
- 8. Public services. The proposed project shall be served by the City water and sewer system and fire hydrants shall be installed at such locations as necessary to provide fire protection.
- 9. Refuse. Provision for trash pick-up shall be provided according to a plan approved by the City Council.
- 10. Best Management Practices. All Planned Unit Developments shall incorporate Best Management Practices for stormwater management as defined by Chapter 7 of the City Code, subject to review and approval of the Zoning Administrator, Planning Commission and City Council.
- 11. Sidewalks and Trails. Except as otherwise determined by the City Council, concrete sidewalks not less than five (5) feet in width and/or bituminous trails not less than eight (8) feet in width shall be provided in accordance with the following:

Table 515-5-7.1. Sidewalk/Trail Requirements.

Street Type	Sidewalk/Trail Requirements
Arterial and Major Collector Streets	Sidewalk on one side of the street and trail on opposite side of street or trails on both sides of the street*
Minor Collector and Local Streets	Sidewalk on one side of the street*
Cul-de-sacs	No requirements
*All sidewalks and trails shall be placed back from the street wherever possible to provide a green strip for tree planting and to promote pedestrian safety and reassurance	

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12. Development Agreement. Prior to a rezoning or the issuance of a building permit as part of a Planned Unit Development (PUD), the developer shall execute a development agreement with the City. The agreement shall detail all use restrictions and required improvements conditional to the Planned Unit Development (PUD) rezoning approval. The agreement shall provide for the installation within one (1) year of the off-site and on-site improvements as approved by the City Council, secured by a cash escrow or security in an amount and with conditions satisfactory to the City, to ensure the City that such improvements will be actually constructed and installed according to specifications and plans approved by the City as expressed in such agreement. The amount of the financial guarantee shall be one and one-half (1½) times the estimated cost of the improvements, or as determined by the City of Brainerd.

D. General Standards for Common Open Space. No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:

1. The location, shape, size, and character of the common open space must be suitable for the planned development.
2. Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering the size, density, expected population, topography, and the number and type of dwellings to be provided.
3. Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

E. Conveyance and Maintenance of Common Open Space.

1. All land shown on the Final Development Plan as common open space must be conveyed under one of the following methods at the discretion of the City.
 - a. It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it.
 - b. It may be conveyed to a corporation, developer, homeowner association (incorporated or non-incorporated) or trustee provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the party involved subject to covenants approved by the City Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
 - c. If the common open space is conveyed to a private party and is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs back to said private party.

F. Enforcement of Development Schedule/Planned Unit Development

1. Staging. The construction and provision of all the common open spaces and public and private recreational facilities that are shown on the Final Development Plan must proceed at the same rate as development. At least once every six (6) months following the approval of the Final Development Plan, the Zoning Administrator shall review all of the building permits issued for the planned development and examine the construction that has taken place on the site. If it is found that the rate of development is faster than the rate at which common open spaces and public and private recreational facilities have been constructed and provided, this information shall be forwarded to the City Council. If the developer or landowners fail to complete the open spaces and recreation areas within 60- days after the completion of the remainder of the project, the City may finish the open space areas and assess the cost back to the developer or landowner.

G. Residential Density.

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1. In order to encourage the protection of natural resources, to allow limited development in an area with unusual building characteristics due to subsoil characteristics or to encourage creative land use, a density transfer system may be allowed whereby lot sizes smaller than that normally required in a district will be allowed on the developable land in return for leaving the natural resource areas open from development. The number of dwelling units proposed for the entire site shall not exceed the total number permitted under the density indicated on the Future Land Use Plan contained in the Comprehensive Plan where the land is located. If the Planned Unit Development (PUD) contains more than one land use designation, the number of allowable dwelling units must be separately calculated for each portion of the Planned Unit Development (PUD) that is in a separate land use designation area, and must then be combined to determine the number of dwelling units allowable in the entire Planned Unit Development (PUD).
2. The number of dwelling units which may be constructed within the Planned Unit Development (PUD) shall be determined by dividing the gross acreage of the project area by the maximum allowable density as set forth in the Base Zoning District.

H. Residential Planned Unit Development Requirements.

1. It is the intent of this section to establish special requirements for the granting of a Rezoning for residential Planned Unit Development (PUD) projects which are in compliance with the density, permitted and conditional uses allowed in a specific base district including dwellings, offices and institutional uses of one or more buildings in relation to an overall design and integrated physical plan.
 - a. *Yards.*
 - i. *Setbacks, Periphery.* The front and side yard restrictions at the periphery of the Planned Unit Development (PUD) site at a minimum shall be the same as imposed in the Base Zoning District in which the subject property is located.
 - b. *Building Separation.* Buildings within the same lot shall maintain a minimum setback of the average of the building heights of the two adjacent principal buildings.
2. Townhouses, Cooperatives, Condominiums.
 - a. *Frontage.* Minimum unit lot frontage for townhouses shall be not less than 15 feet.
 - b. *Dwelling Unit.* Dwelling unit and accessory use requirements are in compliance with the Base Zoning District provisions in which the development is planned.
 - c. *Building Façade Treatment.* Facades greater than 48-feet in length shall incorporate wall plan projections or recesses having a depth of at least three (3) feet or more.
 - d. *Open Space.* Townhouse and multiple family projects shall have usable open space area equal to 40-percent of the total project site.

I. Commercial and Industrial Planned Unit Development.

1. The intent of this section is to establish special requirements for the granting of a Rezoning to allow commercial or industrial Planned Unit Development (PUD) projects which are in compliance with the permitted and conditional uses allowed in a specific district in one or more buildings in relation to an overall design and integrated physical plan.
2. Surfacing and Drainage.
 - a. *Surfacing.* The entire site other than that taken up by buildings or landscaping shall be paved with concrete, bituminous or paving brick.
 - b. *Drainage.* A drainage system subject to the approval of the City Engineer shall be installed.
 - c. *Yards.*
 - i. *Setbacks, periphery.* The front and side yard setbacks shall be the same as imposed in the Base Zoning District.

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J. Procedure for Processing a Planned Unit Development (PUD).

1. Stages of Planned Unit Development (PUD) Plan. The processing steps for a Planned Unit Development (PUD) plan are intended to provide for an orderly development and progression of the PUD plan, with the greatest expenditure of developmental funds being made only after the City has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the PUD plan affects the public interest. The various steps represent separate applications for purpose of review, and each step is, outlined in detail in the following sections:
 - a. *Pre-Application Meeting.* Preliminary discussions.
 - b. *General Concept Plan Application.* Consideration of overall concept and plan. The concept plan review is voluntary but strongly recommended.
 - c. *Development Stage Plan Application.* One or more detailed plans as part of the whole final plan.
 - d. *Final Plan Application.* The summary of the entire concept and each Development Stage Plan in an integrated complete and final plan.
2. Pre-Application Review. Prior to the submission of any PUD Plan to the Planning Commission, the applicant shall meet with City Staff to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This may include the procedural steps for a Conditional Use Permit and/or a Preliminary Plat as necessary.
3. Neighborhood Meeting. The City may recommend the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to submitting a formal concept application.
4. General Concept Plan.
 - a. The General Concept Plan provides an opportunity for the applicant to submit an application to the City showing his basic intent and the general nature of the entire development before incurring substantial cost. This General Concept Plan serves as the basis to solicit public comment early in the project design and development process. The General Concept Plan should include the following:
 - i. Overall maximum Planned Unit Development density range.
 - ii. Proposed location of major streets and pedestrian ways.
 - iii. Proposed location and extent of public and common open space.
 - iv. Proposed location of residential and nonresidential land uses with approximate type and intensities of development.
 - v. Proposed staging and time schedule of development.
 - vi. Other special criteria for development.
5. General Concept Plan submission information.
 - a. *General Information.*
 - i. *Owner.* The landowner's name, address and telephone number and interest in the subject property.
 - ii. *Applicant.* The applicant's name, address and telephone number if different from the landowner. The applicant may designate an agent to be contacted by the City, who may speak for the applicant.
 - a. *Title.* If applicant is different than the owner, evidence that the applicant has sufficient control over the subject property to effectuate the proposed Planned Unit Development (PUD), including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.

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- iii. *Consultants.* The names and addresses of all professional consultants who have contributed to the development of the Planned Unit Development (PUD) plan being submitted, including attorney, land planner, engineer and surveyor.
- iv. *Zoning.* The existing zoning classification and present use of the subject property and all lands within 500-feet of the subject property.
- v. *Map.* A single reproducible map or aerial photograph at a scale of not less than one (1) inch equals 100 feet, depicting the existing development of the subject property and all land within 500 feet thereof and showing the precise location of existing streets.
- vi. *Narrative Description.* A written statement generally describing the proposed Planned Unit Development (PUD) and the market which it is intended to serve, showing its relationship to the City's Comprehensive Plan and how the proposed Planned Unit Development (PUD) is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.
- vii. *Existing Site Conditions.* Where deemed necessary by the City, graphic reproductions of the existing site conditions at a scale of not less than one (1) inch equals 100 feet shall be submitted and shall contain the following:
 - a. Certificate of Survey showing lot dimensions, existing easements and utilities, and legal description.
 - b. Contours, minimum two (2) foot intervals.
 - c. Location, type, and extent of tree cover.
 - d. Steep slope analysis.
 - e. Location and extent of water bodies, wetlands, streams and flood plains along with corresponding zoning overlays (Shoreland and Mississippi Headwaters) within three hundred (300) feet of the subject property.
 - f. Existing drainage patterns.
 - g. Vistas and significant views.
 - h. Soil conditions as they affect development.
 - i. All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.
- viii. *General Concept Drawing.* Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.
- ix. *Number of Units.* A statement of the estimated total number of dwelling and/or other units proposed for the Planned Unit Development (PUD) and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
 - a. Area devoted to residential uses.
 - b. Area devoted to residential use by building or structure or use type.
 - c. Area devoted to common open space.
 - d. Area devoted to public open space.
 - e. Approximate area devoted to streets.
 - f. Approximate area, and potential floor area, devoted to commercial uses.

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- g. Approximate area, and potential floor area, devoted to industrial or office uses.
 - x. *Staged Development.* When the Planned Unit Development (PUD) is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total Planned Unit Development (PUD) public or common open space and dwelling units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.
 - xi. *Common Areas.* When the proposed Planned Unit Development (PUD) includes provisions for public or common open space or service facilities a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities is required. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted during the development stage.
 - xii. *Covenants.* General intent of any restrictive covenants that are to be recorded with respect to property included in the proposed Planned Unit Development (PUD).
 - xiii. *Market Feasibility.* Where deemed necessary by City Staff a market feasibility study including an analysis of the proposals economic impact on the City.
6. General Concept Plan Process.
- a. Applications shall be accompanied by a fee as set by City Ordinance and shall be accompanied by an electronic copy of detailed written and graphic materials. Hard copies may be requested by the Zoning Administrator. The applicant, or a representative thereof, shall appear before the Planning Commission to answer questions concerning the proposed development.
 - b. Planning Commission shall review and make a recommendation to the City Council on the General Concept Plan.
 - c. City Council reviews all recommendations and indicates its support or concerns about the General Concept Plan as presented or amended.
 - d. All feedback and recommendations shall be considered as guidance to the applicant. No formal action or binding decision is given for the General Concept Plan.
7. Optional Submission of Development Stage Plan. In cases of single stage Planned Unit Development (PUD) or where the applicant wishes to begin the first stage of a multiple stage Planned Unit Development (PUD) immediately, they may, at their option, submit a Development Stage Plan for the proposed Planned Unit Development (PUD) simultaneously with the submission of the General Concept Plan. In such cases, the applicant shall comply with all the provisions of this Ordinance applicable to submission of the Development Stage Plan. The Planning Commission and City Council shall consider such plans simultaneously and shall grant or deny Development Stage Plan approval in accordance with the provisions of this section.
- K. **Effect of General Concept Plan Approval.** Planned Unit Development concept approval only provides direction for the applicant to proceed to Planned Unit Development (PUD), Development Stage Plan submission. The concept plan approval does not convey any development rights or privileges to the applicants.
- L. **Development Stage Plan.** Development Stage Plan submissions shall depict and outline the proposed implementation of the Planned Unit Development (PUD) General Concept Plan Stage. Information from the General Concept Plan Stage may be included for background and to provide a basis for the submitted Development Stage Plan.
- 1. Application. Requests for Planned Unit Development (PUD), Development Stage, as provided within this Ordinance, shall be filed on an official application form. Applications shall be accompanied by a fee as set by City Ordinance, and shall be accompanied by an electronic copy of detailed written and graphic materials.

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Hard copies may be requested by the Zoning Administrator. The submission must fully explain the proposed change, development, or use, as follows:

a. *Site Plan/Preliminary Plat.*

- i. *Site Plan and Building Plan.* The applicant shall submit a Site Plan and Building Plans (if applicable) in accordance with Section [515-5-5] of this Ordinance. The Zoning Administrator shall have the authority to provide exceptions to the Information Required based on the General Concept Plan review. In addition to the Information Required, the following additional information must be submitted:
 - a. *Buildings.* The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, or proposed buildings, and existing buildings which will remain, if any.
 - b. *Traffic Circulation.* Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian and the total site coverage of all circulation elements. Sites adjacent to MnDOT right-of-way shall identify the right-of-way location, dimension from the center line of the highway to the MnDOT right-of-way line, along with existing and proposed ingress and egress.
 - c. Sites adjacent to MnDOT right-of-way shall be submitted to MnDOT for review and approval.
 - d. *Common Areas.* Location, designation and total area of all common open space.
 - e. *Public Open Space.* Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
 - ii. *Preliminary Plat, if applicable.* A Preliminary Plat conforming to Chapter 500 of the City Code, the Subdivision Ordinance, may be required depending on the proposed PUD. The Zoning Administrator shall determine if a plat is required and shall inform the applicant during the pre-application meeting.
 - iii. *Residential Tabulation.* A tabulation indicating the number of residential dwelling units by number of bedrooms and expected population/housing profile.
 - iv. *Areas of Use.* A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of use.
- b. *Document Changes.* A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with a revised copy of any such document, plan or data.
- c. *Lighting Plan.* A plan illustrating site lighting along with a photometric plan as regulated by Section [515-4-8] of this Ordinance.
- d. *Additional Data.* Such other and further information as the Zoning Administrator, Planning Commission or City Council shall find necessary for a full consideration of the entire proposed Planning Unit Development (PUD) or any stage thereof.

M. Development Stage Plan Review Schedule.

1. The applicant shall file the Development Stage Plan application within six (6) months after General Concept Plan review, together with all supporting data and filing fee, as established by Ordinance.
2. It is recommended that the developer meets with the Zoning Administrator to discuss specific development plans prior to submitting the Development Stage Plan.
3. Staff Review/Technical Assistance Reports. Upon receipt of an application for a Planned Unit Development (PUD), Development Stage Plan, the request shall be referred to appropriate City staff to ensure that

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informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted.

4. Other Agency Review. When appropriate, the Planned Unit Development (PUD), Development Stage Plan application shall be forwarded to other special review agencies such as the Department of Natural Resources, soil conservation services, highway departments, or other affected agencies.
 5. A public hearing shall be scheduled at a meeting of the Planning Commission.
 6. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
 7. The Planning Commission shall review said reports and plans and submit recommendations to the Council. Such recommendations shall contain the findings of the Planning Commission with respect to the conformity of the Development Stage Plan to the approved General Concept Plan. Should any changes be found to exist, the Planning Commission shall comment with respect to the merit or lack of merit of any departure of the Development Stage Plan from substantial conformity with the General Concept Plan and with respect to the compliance of the Development Stage Plan with the provisions of this Ordinance and all other applicable Federal, State and local codes and ordinances. If the Planning Commission shall find conformity or any changes merit approval and the Planning Commission shall further find the Development Stage Plan to be in all other respects completed and in compliance with this Ordinance and other applicable Federal, State, and local codes and ordinances, it shall recommend approval.
 8. Upon receipt of the Planning Commission report and recommendation, the request shall be placed on the agenda of the next regularly scheduled meeting of the City Council
 9. The City Attorney shall prepare a Planned Unit Development (PUD) Development Agreement which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This agreement shall be signed by the Mayor of the City of Brainerd, the City Administrator and the applicant within thirty (30) days of City Council approval of the Development Stage Plan. Where the Development Stage Plan is to be resubmitted or denied approval, the City Council action shall be by written report setting forth the reasons for its action. In all cases, a copy of the document evidencing City Council action shall be promptly delivered to the applicant.
 10. Limitation on Development Stage Plan Approval. Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the Planned Unit Development (PUD) has been filed within six (6) months from the date the City Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Ordinance and/or an approved Development Stage Plan, the approval shall expire. Upon application by the applicant, the City Council may at its discretion extend for not more than six months, the filing deadline for any Final Plan when, for good cause shown, such extension is necessary. In any case where Development Stage Plan approval expires, the City Council shall forthwith adopt a resolution repealing the General Concept Plan approval and the Development Stage Plan approval for that portion of the Planned Unit Development (PUD) that has received Final Plan approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.
- N. **Final Plan.** The Final Plan is to serve as a complete, thorough and permanent public record of the Planned Unit Development (PUD) and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the Planned Unit Development (PUD) process. It shall serve in conjunction with other City ordinances and the land use regulations applicable to the Planned Unit Development (PUD). The Final Plan is intended only to add detail to, and to put in final form, the information contained in the General Concept Plan and the Development Stage Plan and shall conform to the Development Stage Plan in all respects. The Final Plan shall officially re-zone the property to PUD.
1. Final Plan Submission Information. After review of a General Concept Plan for the Planned Unit Development (PUD) and approval of a Development Stage Plan for a section or sections of the proposed Planned Unit Development (PUD), the applicant will submit the following material for review by the Zoning Administrator prior to issuance of a building permit:

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- a. *Recording Proof.* Documents establishing the recording of any easement or other documents required by the City prior to the sale of any land or dwelling unit included in the Planned Unit Development (PUD) and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
 - b. *Final Plans, Buildings.* Final architectural working drawings of all buildings.
 - c. *Final Engineering Plans.* Final engineering plans and specifications for streets, drainage, utilities and other public improvements, together with a development contract providing for the installation of such improvements and financial guarantees for the completion of such improvements.
 - d. *Other Plans.* Any other plans, agreements, or specifications necessary for the Zoning Administrator to review the proposed construction. All work shall be in conformance with the Building Code of the City.
2. Final Plan Review Schedule.
- a. Upon approval of the Development Stage Plan and within the time established by this Ordinance, the applicant shall file with the Zoning Administrator a Final Plan consisting of the information and submissions required for the entire Planned Unit Development (PUD) or for one (1) or more stages. This application will be considered at the next possible regular Planning Commission meeting.
 - b. The findings and recommendations of the Planning Commission shall be forwarded to the City Council for consideration. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.
 - c. Upon receipt of a complete Planned Unit Development (PUD) Final Plan application, the City Council shall grant approval or denial of the request to rezone the project to PUD.
 - d. The applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County. The applicant shall provide the City with a signed copy verifying County recording within six (6) months from the date of approval.
 - e. *Building and Other Permits.* Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicant ordinances of the City, the Zoning Administrator may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the Zoning Administrator is first satisfied that the requirements of all codes and ordinances in which are applicable to the permit sought, have been satisfied.
 - f. *Limitation on Final Plan Approval.* Within one (1) year after the approval of a Final Plan for Planned Unit Development (PUD), or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an automatically rendered void, the Planned Unit Development (PUD) permit and all approvals of the Planned Unit Development (PUD) plan and the area encompassed within the Planned Unit Development (PUD) shall thereafter be subject to those provisions of the Zoning Ordinance, and other ordinances, applicable in the district in which it is located. In such case, the City Council shall forthwith adopt an ordinance repealing the Planned Unit Development (PUD) permit and all Planned Unit Development (PUD) approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable. The time limit established by this section may, at the discretion of the City Council, be extended for not more than one (1) year by ordinance or resolution duly adopted.

O. Coordination with Subdivision Resolution Regulations.

1. It is the intent of this Ordinance that any required subdivision review under Chapter 500, the Subdivision Ordinance, be carried out concurrently with the review of a Planned Unit Development (PUD) under this Ordinance.

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2. The plans required under this section must be submitted in a form which will satisfy the requirements of the Subdivision Ordinance for the Preliminary and Final Plats required under those regulations.

P. Planned Unit Development (PUD) Review and Amendments.

1. Annual Review. The Zoning Administrator and the Planning Commission shall review all uncompleted Planned Unit Development (PUD) within the City by March 1 of each year and shall make a report to the Planning Commission and City Council on the status of the development in each of the Planned Unit Development (PUD) Districts. If the Planning Commission finds that development has not occurred within one (1) year after the original approval of the conditional use for the Planned Unit Development (PUD), the Planning Commission may recommend that the City Council revoke the Conditional Use Permit or the Planned Unit Development (PUD) permit.
2. Amendments to the Planned Unit Development (PUD).
 - a. Any deviation or modification from the terms or conditions of an approved Planned Unit Development (PUD), or any alteration in a project for which a Planned Unit Development (PUD) permit has been approved, shall require an amendment of the original Planned Unit Development (PUD). An application for an amendment specifying the proposed alteration shall be submitted to the City, together with a fee as provided for by Ordinance.
 - b. *Action by the Planning Commission and City Council.* The same application and review procedure shall be followed with respect to the applicant's initial request as outlined in this Section [515-5-7].

515-5-8 Building Permits and Certificates of Occupancy

- A. **Building Permits.** For the purposes of enforcing this Ordinance, a Building Permit shall be required for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure or cause same to be done in the City of Brainerd.
- B. **Application for a Permit within a Flood Zone.** Application for a permit within a Flood Zone shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: two (2) sets of plans drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- C. **Certificate of Zoning Compliance Required.**
 1. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
 2. Building permits, Conditional Use Permits, or Certificates of Zoning Compliance shall be issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.
 3. Any use, arrangement, or construction of a Variance with the authorized, approved plans shall be deemed a violation of this Ordinance, and punishable as provided by Section [515-5-11] of this Ordinance.
 4. The Building Official, in consultation with the Zoning Administrator, may refuse to issue a Certificate of Occupancy for any building or structure so long as any violations of this Ordinance exist on the premises or there remains any unsatisfied conditions related to any permit or Variance applicable to the premises.

515-5-9 Administrative Permits

- A. **Purpose.** The purpose of this Section is to establish regulations and procedures for the processing and consideration of activities allowed by Administrative Permit, with the goal of protecting the health, safety, and welfare of the citizens of the City.

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B. Procedure.

1. Application for an Administrative Permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.
2. New applications and applications for amending Administrative Permits shall be accompanied by a non-refundable fee as set forth by resolution of the City Council.
3. The Zoning Administrator shall review the application and related materials and shall determine that the proposal complies with all applicable evaluation criteria, codes, ordinances, and applicable performance standards.
4. The Zoning Administrator shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
 - a. Compliance with and effect upon the policies and provisions of the official Comprehensive Plan.
 - b. The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
 - c. The use, event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - d. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
 - e. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
 - f. The use, event or activity shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.
 - g. The use, event or activity and site conform to all applicable performance standards of this Ordinance.
 - h. The Zoning Administrator shall make a determination on approval or denial of the Administrative Permit within thirty (30) days from the date of submission of a complete application.
5. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the permit.
6. Determination of non-compliance with applicable codes, ordinances, and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.
7. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as defined by Section [515-5-11] of this Ordinance.

C. Information Requirement. The information required for all Administrative Permit applications shall include:

1. A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.
2. A copy of the approved Site Plan or Sketch Plan, if available, for the property or an “as built” survey which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.

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- a. If requested by the Zoning Administrator, a Site Plan or Building Plan per Section [515-5-5] of this Ordinance may be required. The Zoning Administrator shall have the authority to exempt certain some requirements based on the proposed use or improvements.
- b. If requested by the Zoning Administrator, a Sketch Plan of the subject property may be requested. The Sketch Plan must be drawn to-scale, must be scalable and show, at a minimum, lot lines, required setback, location of improvements and any proposed improvements and structures.
3. An accurate floor plan, which in the judgment of the Zoning Administrator, is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exists.
4. A copy of the current sales tax certificate issued by the State of Minnesota, if applicable.
5. Certification that all property taxes, special assessments, interest and utility fees due upon the parcel to which the Administrative Permit relates have been paid.
6. Proof that the applicant has insurance, in an amount acceptable to the City, to protect from risks inherent in the proposed activity.

D. Performance Standards. All uses, events or activities allowed by Administrative Permit shall conform to the applicable standards outlined in the Zoning District in which such use, event or activity is proposed.

E. Administration and Enforcement.

1. The Zoning Administrator shall keep a record of applications and Administrative Permits.
2. A copy of all Administrative Permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.
3. Enforcement of the provisions of this paragraph shall be in accordance with Section [515-5-11] of this Ordinance. Violation of an issued permit or of the provisions of this Section also shall be grounds for denial of future permit applications.

515-5-10 Non-Conforming Lots, Buildings, Structures and Uses

A. Purpose and Intent. It is the purpose of this Section to provide for the regulation of legal non-conforming lots, buildings, structures and uses and to specify those requirements, circumstances and conditions under which legal non-conforming lots, buildings, structures, and uses will be operated and maintained. This Ordinance establishes separate Base Zoning Districts and Overlay Districts, each of which is an appropriate area for the location of uses which are permitted in that Zoning District. It is necessary and consistent with the establishment of these Zoning Districts that non-conforming lots, buildings, structures, and uses are not allowed to continue without restriction.

B. General Provisions.

1. Conditional Uses/Interim Uses/Uses by Administrative Permit. Any established use or building legally existing prior to the effective date of this Ordinance, and which is herein classified as a conditional use, interim use, or use by administrative permit may be continued in like fashion and activity and shall automatically be considered as having received the applicable approval. Any change to such a use, including, but not limited to, building and/or site alteration, shall require a new permit be processed as provided in this Ordinance.
2. Moving Nonconforming Buildings. No nonconforming building or structure shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed prior to the effective date of this Ordinance unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance.
3. Subdivision. No parcel of land or portion thereof shall be subdivided if such action results in parcels, buildings and structures becoming nonconforming.

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4. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of adoption of an additional control under this Ordinance, may be continued in the same size and manner, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this Section, unless:
 - a. The nonconforming use or occupancy is discontinued for a period of more than one (1) year. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
 - b. Any nonconforming use is destroyed by fire or other peril to the extent greater than fifty (50) percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City of Brainerd may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

C. Non-Conforming Uses.

1. Changes to Non-Conforming Uses:

- a. When a lawful, nonconforming use of any structure, building or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
- b. A lawful, nonconforming use of a structure, building or parcel of land may be changed to lessen the nonconformity of the use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

D. Non-Conforming Buildings and Structures.

1. Proposed Building or Structure. Any proposed building or structure which will, under this title, become nonconforming but for which a Building Permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans, provided construction is started within 60 days of the issuance of a building permit, is not abandoned for a period of more than 120 days, and continues to completion within two (2) years. Such building or structure shall thereafter be a legally nonconforming building or structure.

E. Non-Conforming Lots.

1. Vacant or Redeveloped Lots. Except in Floodplain and Flood Fringe districts, legal, nonconforming lots of record may be developed, provided that:
 - a. *Legally Established Lot.* The lot in question was legally established in accordance with City Code requirements existing at the time of its creation and is a separate, distinct tax parcel.
 - b. *Unsewered Lots or Parcels.* A lot or parcel of 20,000 square feet or larger, not having access to municipal sewer, shall be considered buildable provided public health concerns (potable water and sanitary sewer) can be adequately addressed.
 - c. *Access.* The lot in question has frontage on and will directly access an improved public street.
 - d. *Setback and Yard Requirements.* The setback and yard requirements of the base zoning district can be achieved while simultaneously resulting in development which complies with the character and general design of the immediate area and the objectives of the City's Comprehensive Plan and the provisions of this Ordinance.
2. Developed Lots. An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.

F. Reestablishment of Nonconforming Buildings and Structures

1. Any building or structure which at one time had a nonresidential use may be reestablished with a nonconforming use provided it is found that:
2. The building or structure and land in combination, cannot reasonably be used for a conforming purpose;
3. The proposed use is compatible with adjacent properties and the area in which it is located;

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4. The proposed use will not be detrimental to the existing character and/or endanger the public health, safety or general welfare of the area;
5. The proposed use is consistent with the comprehensive plan;
6. Off-street parking is provided in accord with Section [515-4-12] Off-street Parking.
7. A public hearing is held in accord with the process described in Section [515-5-2] Conditional Use Permits.
8. A nonconforming residential use that had a rental license expire (more than 365 days from date of license expiration) cannot be reestablished as a nonconforming use.

515-5-11 Enforcement and Appeals.

A. **Enforcing Officer.** The City Council shall appoint a Zoning Administrator. The Zoning Administrator shall enforce this Ordinance and shall perform the following duties:

1. Maintain permanent and current records of this Ordinance, including but not limited to maps, amendments, variances and conditional uses.
2. Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
3. Institute in the name of the City, any appropriate actions or proceedings against a violator as provided for.
4. Serve as an ex-officio non-voting member of the Planning Commission.
5. The Zoning Administrator shall work with the Building Department to enforce the provisions of this Ordinance.
6. If the provisions of this Ordinance are being violated, the City shall notify in writing the property owner or property owner and tenant if rental property for such violations pursuant to Chapter [4]. The City shall order discontinuance of illegal use of the land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Section to ensure compliance with or to prevent violation of provisions of this Ordinance.

B. **Violations, Penalties and Enforcement.**

1. Violations. The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be enforced by and one (1), all, or a combination of the following penalties and remedies:
 - a. Violations may be enforced as administrative offenses pursuant to Chapter 320 of the Brainerd City Code.
 - b. Violations shall be punishable as misdemeanor prescribed under State law.
 - c. The Zoning Ordinance may also be enforced by injunction, abatement, mandamus or any other appropriate remedy ordered by a court of competent jurisdiction.
2. Penalties. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitute a separate offense.
3. Application to Community Personnel. The failure of any officer or employee of the community to perform any official duty imposed by this Ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.
4. Equitable Release. In the event of a violation or the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the community in addition to other remedies may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.
5. Penalties for Violation in Flood Zone.

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- a. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall be punishable as described in Part A of this Section.
- b. Nothing herein contained shall prevent the City of Brainerd from taking such other lawful action as is necessary to prevent or remedy any violation.
- c. In responding to a suspected Ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- d. When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources Office, Federal Emergency Management Agency Regional Office and Mississippi Headwaters Board Office, along with the community's plan of action to correct the violation to the degree possible.
- e. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use are under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or the community grants approval. If the construction or development is already completed, then the Zoning Administrator may either issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or to notify the responsible party to apply for an after-the-fact permit/development approval within specified period of time not to exceed 30 days.
- f. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition that existed prior to the violation of this Ordinance.

C. Board of Zoning Appeals. The City Council shall serve as the Board of Zoning Appeals.

D. Appeal Procedures.

1. The Board of Zoning Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing the Ordinance. Such an appeal can be taken by any person, firm or corporation aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state.
2. The Board of Zoning Appeals shall also have the power to grant variances to provisions of the Zoning Ordinance under certain conditions. The conditions for the issuance of a Variance are as indicated in Section [515-5-4] of this Ordinance. No Use Variances shall be issued by the Board of Zoning Appeals.
3. Hearings of the Board of Zoning Appeals shall be held within such time and upon such notice to interested parties as is provided in its adopted rules for the transaction of its business. The Board shall, within a reasonable time, make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.
4. The Board of Zoning Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all

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the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated. The decision of such board shall not be final and any person having an interest affected by such decision shall have the right to appeal to District Court in the county in which the land is located on questions of law and fact.

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515-6 RULES AND DEFINITIONS.

515-6-1. Rules.

A. **Rules.** The language contained in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The singular number includes the plural and the plural includes the singular.
2. The present tense includes the past and future tenses, and the future to the present.
3. The words "shall" and "must" are mandatory, and the word "may" is permissive.
4. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition.
5. All measured distances expressed in feet shall be to the nearest tenth of a foot.
6. In the event of conflicting provisions, the more restrictive provisions shall apply.
7. For terminology not defined in this Section, the most current Merriam Webster's dictionary shall be used to define such terms.

515-6-2. Definitions. The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

A. **Definitions of Nouns, Person and Regulatory Bodies.** The following definitions are provided to describe persons, regulatory bodies and agencies referenced throughout this Ordinance.

1. **Applicant.** The person(s) whose name(s) are on an application as owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this Ordinance are being considered or reviewed.
2. **Board of Zoning and Appeals.** Brainerd City Council.
3. **Builder.** Any person or entity to which a building permit is issued for the construction of a single-family residence.
4. **Business.** Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
5. **City.** City of Brainerd.
6. **County.** Crow Wing County, Minnesota.
7. **Developer.** Any person or entity other than a builder, as defined herein, who undertakes to improve a parcel of land, by platting, grading, installing utilities or construction or improving any building thereon.
8. **MPCA.** Minnesota Pollution Control Agency.
9. **MnDOT.** Minnesota Department of Transportation.
10. **Owner.** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one (1) year, a dominant easement interest, or an option to purchase any of same, but not including owners or interests held for security purposes only.
11. **Public Notices.** Official notice posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.
12. **Planning Commission.** The Planning Commission of Brainerd.

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13. Zoning Administrator. The duly appointed person charged with enforcement of this Ordinance.

B. Definitions of Structure, Measurement and Dimension.

- 1. Abut (includes abuts and abutting).** To be next to, or to share a common boundary. “Abutting” includes across a street. “Abutting” does not include properties that touch only corner to corner
- 2. Accessory Building or Structure.** A subordinate building or structure which is located on the same lot as the Principal Structure which is reasonably necessary and incidental to the conduct of the primary use of such Principal Structure.
- 3. Accessory Dwelling Unit (ADU).** A smaller, independent residential dwelling unit located on the same lot as a stand alone principal dwelling unit. ADUs may be attached or detached from the principal dwelling unit.
- 4. Addition.** A physical enlargement of an existing structure.
- 5. Adjacent.** Having a common border (a shared or adjoining border or property line).
- 6. Agricultural Building or Structure.** Any building or structure, existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.
- 7. Alley.** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of a property with principal frontage on a Street.
- 8. Awning.** A roof like cover, often of fabric, plastic, metal or glass designed and intended for protection from weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk or the like. Any part of an awning which projects over a door shall be counted as an awning.
- 9. Basement.** Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on at least three sides, regardless of the depth of excavation below ground level.
- 10. Bluff.** A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:
 - a. Part or all of the feature is located in a shoreland area.
 - b. The slope rises at least twenty-five (25) feet above the ordinary high-water level of the water body.
 - c. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high-water level averages thirty percent (30%) or greater.
 - d. The slope must drain toward the water body.
- 11. Buildable Land, Contiguous.** Land area occurring within the property lines of a parcel or lot excluding wetlands, water bodies, 100 year flood fringe, transmission utility easements, or rights-of-way.
- 12. Building.** Any structure having a roof which may provide shelter or enclosure of persons, animals, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.
- 13. Building Frontage, Common Entry.** A building with a primary entrance on the public right-of-way that provides access to one, or multiple, non-residential tenants.
- 14. Building Frontage, Shopfront.** A building with one primary entrance per tenant that faces the public right-of-way. Examples include small retail buildings with a merchandise window, transom windows, etc.
- 15. Building Frontage, Stoop.** A building with individual entrances for each tenant of the main floor, which may include residential and non-residential uses. See definition of stoop.
- 16. Building Height.** The vertical distance to be measured from the average grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on pitched or hip roof.

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17. **Building Line.** A line measured across the width of the lot at the point where the Principal Structure is placed in accordance with required front yard setback.
18. **Caliper Inch.** The diameter of replacement trees measured at a height of one (1) foot above the ground level.
19. **Canopy.** A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.
20. **Carport.** An automobile shelter having two (2) or more sides open.
21. **Cellar.** A covered excavation, attached or unattached to the Principal Structure, often used for storage or protection from dangerous windstorms.
22. **Cluster Development.** The development pattern and technique whereby buildings or lots are arranged in closely related groups to make the most efficient use of the natural amenities of the land.
23. **Common Open Space.** Any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.
24. **Construction Area.** Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction or any other construction activity.
25. **Condominium.** A multiple family dwelling or development containing individually owned dwelling units that includes jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes sections 515A.1-101 et seq.
 - a. *Condominium Association.* The community association that administers and maintains the common property and common elements of a condominium.
26. **Cooperative.** A multi-unit development operated for and owned by its occupants. Individual occupants own shares of the total investment property.
27. **Critical Root Zone (CRZ).** An imaginary circle surrounding the tree trunk with a radius distance of one (1) foot per one (1) inch of tree diameter, such as a twenty (20) inch diameter tree has a CRZ with a radius of twenty (20) feet.
28. **Deck.** Horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a Principal Structure or use of the site and at any point extending above grade.
29. **Diameter, Tree.** The length of a straight line measured through the trunk of a tree at fifty-four (54) inches above the ground.
30. **Diameter Inch, Tree.** The diameter, in inches, of a tree measured at diameter breast heights (four one-half [4½] feet from the uphill side of the existing ground level).
31. **Drainage.** The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.
32. **Drainageway.** Any natural or artificial watercourse, trench, ditch, swale or similar depression into which surface water flows.
33. **Drip Line.** The farthest distance away from the trunk that rain or dew will fall directly to the ground from the leaves or branches of the tree.
34. **Driveway.** A private roadway providing access for vehicles to a parking space, garage, dwelling or other buildings and structures.

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- 35. Dwelling, Duplex.** A structure containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
- 36. Dwelling, Manufactured Single-Family.** A manufactured single-family dwelling is a structure transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. No manufactured dwelling shall be moved into the City of Brainerd that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes Chapter 327.31 Subdivision 3.
- 37. Dwelling, Multi-family (5 Units+ also referred to as Apartments or Townhomes).** A building designed with five (5) or more dwelling units exclusively for occupancy by five (5) or more families living independently of each other. Such buildings may have common hallways and main entrances or have private entrances. Multi-family buildings may include, but not be limited to, efficiency units, one-bedroom, two-bedroom, and three-bedroom units.
- 38. Dwelling, Short Term Rental Unit –** A dwelling unit, as defined by this Ordinance, offered for trade or sale, whether for money or exchange of goods or services, for not more than 28 consecutive nights.
- 39. Dwelling, Single-Family Attached (2 to 4 Units).** A building designed for two (2) to four (4) dwelling units. Such units may have common or shared entry. Such buildings are commonly referred to as Duplex, Triplex, or Fourplex. See also Duplex.
- 40. Dwelling, Single-Family Detached.** A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.
- 41. Dwelling Unit.** A building or portion thereof, designated exclusively for residential occupancy. One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. Does not include hotel, motel or boarding room.
- 42. Easement.** A grant by an owner of land for specific use by a person or persons other than the owner. An easement may be granted for the purpose of constructing and maintaining walkways, roadways, utilities, and other uses.
- 43. Erect.** Activity of constructing, building, raising, assembling, placing, affixing, attaching creating, painting, drawing or any other way of bringing into being or establishing.
- 44. Extraction Area.** Any non-agricultural artificial excavation of earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth for the purpose of removing minerals or borrow of fill. This definition shall not include excavation made for the building of basements.
- 45. Façade, Building.** The face of a building.
- 46. Fence.** Any partition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.
- 47. Filling.** The act of depositing any rock, soil, gravel, sand or other material on a site.
- 48. Floor Area.** The sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of party walls separating two (2) buildings. In particular, "floor area" shall include:
- a. Basement space if at least one-half (½) of the basement story is above established curb level, or where the curb level has not been established, above the average level of the finished grade.

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- b. Elevator shafts and stairwells at each floor.
 - c. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half (7½) feet, except equipment open or enclosed, located on the roof, i.e., bulkheads, water tanks and cooling towers.
 - d. Attic floor space where the structural head-room exceeds seven and one-half (7½) feet.
 - e. Interior balconies and mezzanines.
 - f. Enclosed porches, but not terraces, breezeways, and screened porches.
 - g. Accessory uses, other than floor space devoted exclusively to accessory off-street parking or loading.
- 49. Floor Area Ratio.** The numerical value obtained through dividing the gross floor area of a building by the net area of the lot or parcel of land on which such building is located.
- 50. Floor Plan, General.** A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.
- 51. Garage, Private.** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families residing upon the premises.
- 52. Gazebo.** A freestanding accessory structure or pavilion from which views of surrounding scenery are commonly offered. Such structures are characterized by partly open construction, design symmetry, and the use of ornamental architectural features.
- 53. Greenhouses.** A building or structure often on a metal or wooden frame constructed chiefly of glass, glasslike or translucent material, which is devoted to the protection or growing of flowers, shrubbery, vegetables, trees or other horticultural and floricultural products.
- 54. Green Space.** Open, undeveloped land with natural vegetation.
- 55. Frontage.** That boundary of a lot or parcel that is adjacent to a private street or dedicated public right-of-way or Street.
- 56. Grade (Adjacent Ground Elevation).** Is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
- 57. Grading Plan.** Existing topography and proposed finished grades with a contour interval of no greater than two (2) feet clearly indicating the relationship of proposed changes to existing topography and remaining features.
- 58. Lot.** A parcel of land designated by metes and bounds, auditors plat, subdivision plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. Individual lots, under the same Owner, with the same or similar uses which function as one use shall, along with any associated accessory uses, be considered one (1) lot for zoning purposes.
- 59. Lot Area.** The area of a lot in a horizontal plane bounded by the lot lines.
- 60. Lot, Corner.** A lot situated at the intersection of, and adjacent to two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.
- 61. Lot Depth.** The mean horizontal distance between the front lot line and the rear lot line of a lot.
- 62. Lot, Interior.** A lot, other than corner lot, including through lots.
- 63. Lot Line, Front.** That boundary of a lot which is adjacent to an existing or dedicated public street, or existing private street. In the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the City.

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- 64. Lot Line, Rear.** That boundary of a lot which is opposite of the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
- 65. Lot of Record.** Any lot which is one (1) unit of a recorded plat designated by auditors plat, subdivision plat, or other accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance. Also referred to as a “parcel.”
- 66. Lot Line, Side.** Any boundary of a lot which is not at the lot line or a rear lot line.
- 67. Lot Through.** A lot which has a pair of opposite lot lines that are adjacent to two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this Ordinance.
- 68. Lot Width.** The maximum horizontal distance between the side lot lines of a lot measured at the front setback line.
- 69. Ordinary High-Water Level (OHWL).** The boundary of public waters and wetlands as determined by the Minnesota Dept. of Natural Resources: an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. (See Shoreland Ordinance and Floodplain Ordinance)
- 70. Parcel.** A contiguous tract or area of land established by plat, subdivision, or as otherwise permitted by law (metes and bounds), that has one legal description and parcel identification number recorded with the Crow Wing County Recorder’s Office. Also referred to as a “lot” or “lot of record.” Individual parcels, under the same owner, with the same or similar uses which function as one (1) use shall, along with any associated accessory uses, be considered one (1) parcel for zoning purposes.
- 71. Property Line.** The legal boundaries of a parcel of property.
- 72. Regulatory Flood Protection Elevation.** The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 73. Road.** See “Street”.
- 74. Setback.** The minimum horizontal distance between a structure or sanitary facility and a road, highway, waterbody, or property line.
- 75. Site.** Lot or combination of contiguous lots or parcels..
- 76. Site Plan.** The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including: topography, vegetation, drainage, floodplains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening device; any other information that reasonably may be required in order that an informed decision can be made by the approving authority.
- 77. Sketch Plan.** A to-scale plan of a parcel, lot, or site that shows:
- a. Existing and proposed improvements including, but not limited to, buildings, parking lots, drive aisles, and accessory buildings
 - b. Yard setbacks
 - c. Wetlands or waterbodies
 - d. Any other applicable physical characteristics required based on this Ordinance.
- 78. Slope.** The degree of deviation of a surface from the horizontal, usually, expressed in percent or degrees.

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- 79. Slope, Steep.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports. Where specific information is not available, steep slopes are lands having average slopes over eighteen (18) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
- 80. Stoop.** A small porch, platform, staircase at a house door with or without steps and with or without a roof.
- 81. Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused above-floor space shall be considered as a story.
- 82. Story, First.** The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty (50) percent of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point.
- 83. Street, Collector.** A street which serves or is designed to serve as a traffic- way for a neighborhood or as a feeder to a major street.
- 84. Street, Cul-de-Sac.** A local street, one end of which is closed and consists of a circular turn around or terminus.
- 85. Street, Local.** A street intended to serve primarily as an access to adjacent properties.
- 86. Street, Minor Arterial.** Streets which serve as transitions between principal arterials and local collector streets.
- 87. Street, Principal Arterial.** A street which is the major interconnection within a community transportation system providing major access routes within the community and its environs.
- 88. Street, Public.** A public right-of-way which affords primary means of access to adjacent property. Such definition includes avenues, highways, roads, or other rights-of-way-as otherwise designated.
- 89. Street, Private.** A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public and is owned by one or more private parties.
- 90. Structure.** Anything which is built, constructed or erected, an edifice or building of any kind, or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.
- 91. Structure Alteration.** Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.
- 92. Structure, Principal (same meaning as Principal Building).** A building or group of buildings which are permanently affixed to the land and which are built, used, designed or intended for the shelter or enclosure of the principal use on the property.
- 93. Substantial Improvement.** Any extension, repair, reconstruction, or other improvement of a property, the cost of which equals or exceeds fifty (50) percent of the fair market value of a property either before the improvement is started or if the property has been damaged and is being restored, before the damage occurred.
- 94. Subdivision.** The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term lease hold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial or other use or any combination thereof, except those separations:

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- a. Where all the resulting parcels, tracts, lots, or interests will be ten (10) acres or larger in size and five hundred (500) feet in width for residential uses and ten (10) acres or larger in size for commercial and industrial uses.
- b. Creating cemetery lots.
- c. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

95. Yard. A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted by this Ordinance. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

96. Yard, Front. A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning in which such lot is located.

97. Yard, Rear. The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

98. Yard, Side. The yard extending along the side lot line between the front yard and rear yards to a depth or width required by setback requirements for the zoning district in which such lot is located.

99. Zero Lot Line. The reduction of side yard setback requirements to zero, permitting the placement of a structure near or adjacent to the side yard lot line. With zero lot line no portion of the structure or accessory appurtenance shall project over the lot line.

C. Definitions of Use, Standards and Terms.

- 1. Accessory Use.** A subordinate use which is clearly incidental and secondary to the Principal Use or Structure located on the same lot.
- 2. Agricultural Use.** The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:
 - a. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
 - b. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
 - c. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
 - d. Tree farms.
 - e. Agricultural land uses do not include slaughter houses or the processing of crops, produce, animals for public purchase or consumption as to constitute a commercial or industrial land use.
- 3. Animals, Domestic.** For purposes of this Ordinance, domestic animals shall be defined as house pets such as dogs, cats, traditional and typical animal pets, and birds (not including pigeons, chickens, geese, turkeys or other domestic fowl) which can be contained within a Principal Structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes rabbits normally sheltered outside the home.
- 3. Animals, Farm.** Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals traditionally and commonly accepted as farm animals in the State of Minnesota.
- 4. Antenna Related.**
 - a. *Personal Wireless Service.* A device consisting of a metal, carbon, fiber, or other electromagnetically conducive rods or elements on a single supporting pole or other structure and used for the transmission and reception of wireless communications including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services.

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- b. *Public or Commercial Radio and Television, Broadcast Transmitting.* A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming and including the support structure thereof.
 - c. *Public Utility Microwave.* A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications and including the support structure thereof.
 - d. *Radio and Television Receiving.* A wire, set of wires, metal or carbon fiber element(s) other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the support structure thereof.
 - e. *Satellite Dish.* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television receive only) and satellite microwave antennas and support structure thereof.
 - f. *Short-Wave Radio Transmitting and Receiving (Ham Radio).* A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave and citizen band radio communications, and including the supporting structure thereof.
 - g. *Secondary Use.* A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.
 - h. *Structure, Public.* An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which is owned or rented, and operated by a federal, state, or local government agency.
 - i. *Support Structure.* Any building or other structure other than a tower which can be used for location of antennas.
 - j. *Tower.* Any ground mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna or similar apparatus above grade.
 - k. *Tower, Temporary Mobile.* Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, which is commonly referred to as Cellular on Wheels (COW).
5. **Assembly, Product.** The taking of two or more parts or components and putting them together to make a final product or a product which will be combined with other components to create a final product.
6. **Auto or Motor Vehicle Wrecking Yard.** A lot or yard where one (1) or more unlicensed motor vehicle(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also "Junk Yard".)
7. **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
8. **Boarding House (Rooming or Lodging House).** A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed twenty (20) persons.
9. **Boarding School** – A school at which the pupils receive board and lodging during the school term.

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10. **Brew Pub** – A restaurant and brewery that brews less than 3,500 barrels of beer per year for sales on the premises provided the beer is sold for consumption on the premises and not sold to other bars, restaurants or wholesalers, except that an establishment licensed under Minnesota Statutes 304A.301, Subdivision 6D may sell “growlers” off-sale with appropriate City licenses.
11. **Club or Lodge**. A not-for-profit association of persons, with members paying annual dues, and with use of the premises being restricted to members and their guests.
12. **Commercial Use**. The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services, including, but not limited to:
- a. *Automobile Repair-Major*. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.
 - b. *Automobile Repair-Minor*. An establishment providing goods or services related to automobiles such as car washes, repair businesses limited to minor engine repair, fluid changing, tire service and muffler repair and other uses of similar character, but not including uses defined as a major automobile business or automobile sales.
 - c. *Automobile Sales*. The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers or recreational vehicles including any major or minor automobile repair or service uses conducted as an accessory use.
 - d. *Automobile Service Station*. Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories.
 - e. *Hospitality Business*. An establishment offering transient lodging accommodations on a daily rate to the general public, leasable events, meeting or conference facilities and exhibition halls or other uses of similar character including hotels, motels, convention facilities, and hospices.
 - f. *Liquor Sales, Off-Sale*. Licensed sale of intoxicating beverages for consumption off site.
 - g. *Liquor Sales, On-Sale*. Licensed sale of intoxicating beverages for consumption at the premises where the beverage is purchased such as a bar or tavern.
 - h. *Motor Fuel Station*. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.
 - i. *Office Business-Clinic*. An establishment located within a building or portion of a building providing out-patient health services to patrons, including general medical clinics, mental health providers, chiropractor, dentists, orthodontia, oral surgeons, opticians, and other uses of similar character.
 - j. *Office Business-General*. An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional administrative or clerical service operations including attorneys, financial advisors, insurance, travel, real estate, and other uses of similar character.
 - k. *Personal Service*. Personal services shall include the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, body art and therapeutic massage.
 - l. *Recreational Business*. Arcade, health club, gymnasium, bowling alley, billiard (pool) hall, dance hall, dance studio, skating rinks, theaters, indoor firearms ranges and sports arenas. Activities are contained within a building.
 - m. *Restaurant*. An establishment that serves food in individual servings for consumption on or off premises, including sit-down restaurants, take out, pick up, or delivery food sales, but not including drive-through facilities. Outdoor dining areas and drive-through facilities may or may not be allowed in each zoning district: they are not automatically allowed when a restaurant is an allowable use.

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- n. *Retail Business.* An establishment engaged in the display and sale of products produced off-site directly to consumers within a building or portion of a building excluding any exterior display and sales. Such uses may include grocery, clothing and book stores, etc. (Exception – sexually oriented uses).
 - o. *Service Business, Off-Site.* A company that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer's location, including delivery services, catering services, plumbing and sewer services, and other uses of similar character.
 - p. *Service Business, On-Site.* An establishment that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks (not including drive-through facilities), copy centers, laundromats, dry cleaners, funeral homes and mortuaries, appliance repair, tailor shops, and travel bureaus.
13. **Comprehensive Plan.** A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the City of Brainerd and its environs. Said plan includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
14. **Conditional Use.** A land use or development that may not be appropriate generally within a certain district but may be allowed in that district with appropriate restrictions, conditions or limitations as imposed by the City Council.
15. **Conditional Use Permit.** A permit issued by the City Council in accordance with the procedures specified within this Ordinance as a device to enable the City Council to assign conditions to a proposed use or development after consideration of the adjacent land uses and the special characteristics which the proposed use presents.
16. **Day Care Facility.** A facility licensed by the State Department of Human Services, public or private, which for gain or otherwise regularly provides one or more persons, as defined by the State Human Services Licensing Act, with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers for children, day training and rehabilitation services for adults, day treatment programs, adult day care centers, and day services.
17. **District.** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.
18. **Drive-Through Facilities.** Physical facilities that permit customers to receive services or obtain goods while remaining in their motor vehicles. Examples include, but are not limited to, bank, drug store, and restaurant drive-through facilities.
19. **Elderly (Senior Citizen) Housing.** A public agency owned or controlled or privately owned multiple dwelling building with occupancy limited to persons over fifty-five (55) years of age or older.
20. **Essential Services.** Overhead or underground electrical, gas, steam or water distribution systems structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including utility towers, water towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith but not including buildings. Personal wireless service and commercial broadcasting antennas and towers shall not be considered an essential service.
21. **Exterior Storage/Outside or Outdoor Storage/Storage Yards.** An outside area where the storing of equipment or material and the storing or parking of vehicles, trailers, or semi-trucks used in the everyday operation of the principal use. Outdoor sales lots are not outdoor storage but are distinct uses regulated by this ordinance.

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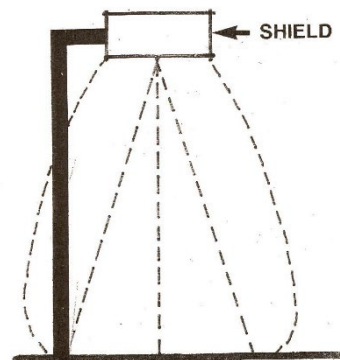
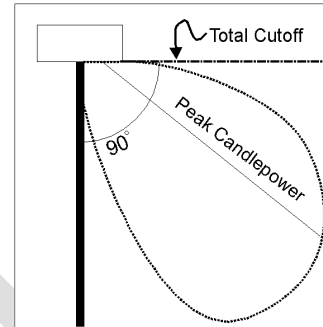
22. **Family.** Two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.
23. **Farm.** Real property used for commercial agriculture or horticulture comprising at least twenty (20) contiguous acres and which may contain other contiguous or noncontiguous acreage, all of which is owned or leased and operated by a single family, family corporation, individual or corporation.
24. **Farm, Limited (Hobby Farm).** A limited farm is a food producing use primarily intended for the use of the residents and on parcels of from one (1) to twenty (20) contiguous acres in size. Limited farming uses may include the production of crops, such as fruits, vegetables, flowers, plants, shrubs and trees. Animals and domestic pets may be allowed subject to the provisions of this Ordinance.
25. **Flag.** Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.
26. **Flood.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
27. **Flood Frequency.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
28. **Home Business.** Any lawful occupation or profession conducted within a dwelling unit by the owner and/or occupant, which is subordinate to the residential use of the principal or accessory structure.
29. **Homeowners Association.** A community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.
30. **Hotel including Extended Stay Hotels.** An establishment offering lodging accommodations including provisions for meals to the general public on a daily or weekly basis, leasable events space, meeting or conference facilities and exhibition halls or other uses of similar character. May also be referred to as motel or extended stay motel. A hotel becomes an extended stay hotel when a guest stays longer than 30 days.
31. **Impervious Surface.** An artificial or natural surface through which water, air or roots cannot penetrate.
32. **Individual Sewage Treatment System (ISTS) or Individual Sewage Disposal System.** A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks followed by soil treatment and disposal or using advanced treatment devices that discharge below final grade. Individual sewage treatment system includes holding tanks and privies (per Minnesota Rules 7080).
33. **Interim Use.** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow said use.
34. **Junk Yard.** An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto-wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.
35. **Kenel, Commercial.** Any structure or premises on which more than three (3) dogs or cats, over six (6) months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.
36. **Kenel, Private.** Any structure or premises in which three (3) or less dogs, over six (6) months of age, are kept for private enjoyment and not for monetary gain. Every kennel shall be enclosed or fenced in such manner as to prevent the running at large or escape of animals confined therein.
37. **Land Reclamation.** The process of the re-establishment of, acceptable topography (i.e., slopes), vegetative cover, soil stability, and the establishment of safe conditions appropriate to the subsequent use of the land.

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38. **Landscaping.** To include, but not limited to plantings, trees, grass, ground cover (mulch and rock) and shrubs.

39. **Lighting Related:**

- a. *Cutoff.* The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.
- b. *Cutoff Angle.* The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted (see Figure 1 at right).
- c. *Cutoff Type Luminaire.* A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.
- d. *Flashing Light.* A light source which is not constant in intensity or color at all times while in use.
- e. *Foot candle.* A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.
- f. *Light Source.* A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- g. *Luminaire.* A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- h. *Outdoor Lighting.* Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground or located on freestanding poles.
- i. *Outdoor Light Fixture.* Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and flood lights.
- j. *Security Lighting.* Outdoor lighting fixtures installed exclusively for the protection of property and public safety.
- k. *Shielding.* A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture (see Figure at right).
- l. *Spillage.* Any reflection, glare or other artificial light that emits onto any adjoining property or right-of-way and is above a defined maximum illumination.



40. **Lodging Room.** A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.

41. **Manufacturing, Light.** The manufacturing or assembly of a product whether in its final version or not. All materials and products must be stored within the structure. Examples of the types of use are electronic assembly, dental laboratories, etc.

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42. **Micro-Brewery.** A facility for brewing beer that produces less than 3,500 barrels per year. It may include a tap room and retail space to sell beer to patrons on the site.
43. **Microdistillery.** A facility for distilling spirits not to exceed the Minnesota State Statute allowed amount in a calendar year. It may include a cocktail room and retail space to sell spirits to patrons on the site.
44. **Mini Self-Storage.** An enclosed storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for the storage of household or commercial goods or personal belongings.
45. **Mining.** The extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.
46. **Model Home.** A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.
47. **Non-Conforming Building or Structure, Legal.** A building or structure which legally exists at the time of the adoption of this Ordinance which does not comply with the regulations of this Ordinance or any amendments hereto governing the Base Zoning District or Overlay District in which such building or structure is located.
48. **Non-Conforming Use, Legal.** A use or activity which was lawful prior to the adoption, revision or amendment of this Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the Base Zoning District or Overlay District.
49. **Nuisance.** Anything defined as a nuisance by Section 2010 of the City Code.
50. **Nursing Home.** A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statute, Section 144.50.
51. **Off-street Loading Space.** A space accessible from the street, alley, or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.
52. **Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, water-course, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
53. **Official Zoning Map.** The Zoning Map established by the City Council, in accordance with the Municipal Planning Act, (MSA 462), showing Base Zoning Districts, Overlay Districts, streets, highways and parks.
54. **Open Sales Lot (Exterior Storage).** Any land used or occupied for the purpose of buying and selling goods, materials, or merchandise and for the storing of same under the open sky prior to sale.
55. **Open Space (Usable).** Open areas, including parks, nature areas, playgrounds, and trails. This does not include holding ponds.
56. **Open Space Recreational Uses.** Recreational use particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsites, campgrounds, waysides, parks and recreation areas.
57. **Ordinance.** Brainerd Zoning Ordinance.
58. **Parking Lot.** An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.
59. **Parking Space.** A surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) automobile.

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60. **Party Wall.** A common shared wall between two (2) separate structures, buildings, or dwelling units.
61. **Permitted Use.** Any use allowed in a Base Zoning District and subject to the restrictions applicable to that Base Zoning District.
62. **Personal, Professional, and Recreational Vehicle Repair, Major.** General repair, rebuilding or reconditioning engines, vehicles, trailers or similar; collision service, including body, frame or fender straightening or repair; overall painting or paint job; transmission repair; vehicle steam cleaning; and similar activity.
63. **Personal, Professional, and Recreational Vehicle Repair, Minor.** The replacement of any part or repair of any part which does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work and upholstery service; and similar activity. Above stated is applied to passenger vehicles and trucks not in excess of 7,000 pounds gross weight.
64. **Place of Worship.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
65. **Planned Unit Development (PUD).** An area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned residential developments and/or one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of non-residential uses to residential uses as shall be specified in the Overlay District.
66. **Practical Difficulty.** The same as that term is defined in Minnesota Statutes, Chapter 462.
67. **Principal Use.** The primary or predominant use of any land and/or buildings and the main purpose for which the land and/or buildings exist.
68. **Public Land.** Land owned or operated by municipal, school district, county, state or other governmental units.
69. **Reclamation-Land.** The improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.
70. **Recreation Equipment.** Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, play houses exceeding 25 square feet of floor area, or sheds utilized for storage of equipment.
71. **Recreation, Public.** Includes all uses that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.
72. **Recreational Vehicle.** A vehicle designed and used for recreational purposes and enjoyment including, but not limited to, snowmobiles, motorized all-terrain vehicles, boats, boat trailers, travel trailers, truck campers, camping trailers, and self-propelled motor homes. This definition does not include race cars or stock cars.
73. **Regional Flood.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in magnitude of the 100 year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
74. **Residential Facility, State Licensed.** Any facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include but are not limited to: state institutions under the control of the Commissioner of Human Services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults, or schools for handicapped children.

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75. Sexually Oriented Activities Related Terms.

- a. "Adult Establishment" means:
- b. Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or
- c. Any business that engages in any adult use as defined in Subdivision 2 of this Section.
- d. Adult Use. Any of the activities and businesses described below:
 - i. "Adult Body Painting Studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
 - ii. "Adult Bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - iii. "Adult Cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
 - iv. "Adult Companionship Establishment" means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - v. "Adult Conversation/Rap Parlor" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - vi. "Adult Health/Sport Club" means a health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - vii. "Adult Hotel or Motel" means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - viii. "Adult Massage Parlor/Health Club" means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - ix. "Adult Mini-Motion Picture Theater" means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - x. "Adult Modeling Studio" means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual

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Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

- xi. "Adult Motion Picture Arcade" means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
- xii. "Adult Motion Picture Theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
- xiii. "Adult Novelty Business" means an establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.
- xiv. "Adult Sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- xv. "Adult Steam Room/Bathhouse Facility" means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- xvi. "Nude" or "Specified Anatomical Areas" means:
 - a. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola.
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- xvii. "Specified Sexual Activities" means:
 - a. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zoerastia;
 - b. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
 - c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
 - d. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
 - e. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;
 - f. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

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- g. Human excretion, urination, menstruation, or vaginal or anal irrigation.
- h. “Substantial or Significant Portion” means: twenty-five (25) percent or more.

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89. **Sign - Commercial Speech Signage.** A sign advertising a business, profession, commodity, commercial service or entertainment.
90. **Sign - Electric Sign.** A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic signs include projected images or messages with these characteristics onto buildings or other objects.
91. **Sign - Flashing Sign.** A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation or mode of lighting which resembles zooming, twinkling or sparkling.
92. **Sign - Freestanding Sign.** Any permanent sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.
93. **Sign - Height of Sign.** Shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.
94. **Sign - Illuminated Sign.** Any sign which contains an element designed to emanate artificial light internally or externally.
95. **Sign - Legally Established Non-Conforming Sign.** Any sign and its support structure lawfully erected prior to the effective date of this Ordinance which fails to conform to the requirement of this Ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this Ordinance and which does not comply with this Ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.
96. **Sign - Marquee.** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.
97. **Sign - Marquee Sign.** Any building sign painted, mounted, constructed or attached in any manner on a marquee.
98. **Sign - Monument Sign.** Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which does not exceed eight (8) feet in height.
99. **Sign - Multiple Tenant Sign.** Any site which has more than one (1) tenant and each tenant has a separate ground level exterior public entrance.
100. **Sign - Multi-Vision Sign.** Any sign composed in whole or part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows, on a single sign structure, the display at any given time one of two or more images.
101. **Sign - Non-Commercial Speech Sign.** A sign displaying a dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, civic events and informational topics.
102. **Sign - Official Sign.** Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, direction to public facilities when erected by or on behalf of a public official or employee in the performance of official duty.
103. **Sign - Off-premise Sign.** A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where sign is located. For purpose of this sign Code, easements and other appurtenances shall be considered to be outside such lot

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and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

104. **Sign - On-Premise Signs.** Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.
105. **Sign - Pole Sign.** See Pylon Sign.
106. **Sign - Projecting Sign.** Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.
107. **Sign - Pylon Sign.** Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.
108. **Sign - Roof Sign.** Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure.
109. **Sign - Roof Sign, Integral.** Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
110. **Sign - Rotating Sign.** A sign or portion of a sign which in any physical part or in total turns about on an axis, rotates, revolves or is otherwise in motion, including without limitation a multi-vision sign.
111. **Sign - Shimmering Sign.** A sign which reflects an oscillating or distorted visual image.
112. **Sign.** Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
113. **Sign - Sign Area.** The area within the marginal lines created by the sign face which bears the advertisement or, in the case of messages, figures or symbols attached directly to the part of the building, which is included in the smallest geometric figure which can be made to circumscribe the message, figure or symbol displayed thereon.
114. **Sign - Sign Face.** The surface of the sign upon, against, or through which the message of the sign is exhibited.
115. **Sign - Sign Structure.** Any structure including the supports, uprights, bracing, and framework which supports or is capable of supporting any sign.
116. **Sign - Suspended Sign.** Any building sign that is suspended from the underside of a horizontal plan surface and is connected to this surface.
117. **Sign - Temporary.** A sign erected or placed on private property for a limited period of time including but not limited to signs affixed or attached to vehicles including trailers.
118. **Sign - Total Site Signage.** The maximum permitted combined area of all signs allowed on a specific property.
119. **Sign - Video Display Sign.** A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that gives the illusion of motion, including, but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

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120. **Sign - Wall Sign.** Any building sign attached parallel to but within two (2) feet of a wall painted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall or building and which displays only one (1) sign surface.
121. **Sign - Window Sign.** Any building sign, pictures, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event sale, or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
122. **Significant Woodland.** A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property, which are comprised of deciduous trees between four (4) inches and twelve (12) inches in diameter or coniferous trees between four (4) feet and twelve (12) feet in height.
123. **Solar Related.**
- a. *Passive Solar Energy System.* A solar energy system that uses natural and architectural components to collect and store solar energy without using any external mechanical power.
 - b. *Solar Access Space.* That airspace above all lots within the Zoning District necessary to prevent any improvement, vegetation or tree located on said lots from casting a shadow upon any Solar Device located within said zone greater than the shadow cast by a hypothetical vertical wall ten (10) feet high located along the property lines of said lots between the hours of 9:30 a.m. and 2:30 p.m., Central Standard Time on December 21. This Ordinance shall not apply to any improvement or tree which casts a shadow upon a Solar Device at the time of the installation of said device, or to vegetation existing at the time of installation of said Solar Device.
 - c. *Solar Collector.* A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply.
 - d. *Solar Energy.* Radiant energy (direct, diffuse, and reflected) received from the sun.
 - e. *Solar Energy System.* A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). To qualify as a solar energy system, the system must be permanently located for not less than ninety (90) days in any calendar year beginning with the first calendar year after completion of construction.
 - f. *Solar Space.* The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.
 - g. *Solar Sky Space Easement.* A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar sky space of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar sky space must be described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two (2) methods.
 - h. *Solar Structure.* A structure designed to utilize solar energy as an alternate for, or supplement to a conventional energy system.
124. **Specialty Food Shops.** An establishment specializing in selling one type or line of edible or drinkable products catering to the takeout client and not offering full-service meals. Examples include coffee, candy, ice cream, etc. Product manufactured on site such as candy or ice cream must be over the counter on site sales.
125. **Sport Court.** A facility that typically includes a paved playing surface for one or more sport activities such as, but not limited to, tennis, basketball, or volleyball.

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126. **Stable, Commercial.** The business of boarding horses for fee for persons not residing on the premises and may include instruction, exhibition and sale of horses. This shall include the raising and breeding of horses.
127. **Storage, Outdoor.** Keeping of any personal property, commercial, or industrial property that is not enclosed in a .
128. **Stringer.** A line of string, rope, cording or an equivalent to which is attached a number of pennants.
129. **Surface.** A road, driveway, approach, parking lot which consists of gravel, crushed rock, lime rock, bituminous surface, concrete surface, or other similar material.
130. **Swimming Pool.** Any indoor or outdoor structure intended for swimming, wading or recreational bathing. The structure may be constructed, installed or located in-ground, partially in-ground or above ground and may include permanent or storable swimming pools, hot tubs and spas.
131. **Taproom/Tasting Room.** A facility on the premises of and accessory to a licensed brewery intended for the on-sale consumption and limited off-sale beer produced by the brewer as authorized by Minnesota Statutes Section 340A.301 Subdivision 6B.
132. **Temporary Structure.** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
133. **Toxic and Hazardous Wastes.** Waste materials including, but not limited to: poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.
134. **Tree.** Any of the following type of trees, as each is defined herein:
- a. *Coniferous Tree.* A woody plant which, at maturity, is at least 12 feet or more in height, having foliage on the outermost portion of the branches year-round.
 - b. *Deciduous Tree.* A woody plant which, at maturity, is at least 15 feet or more in height, having a defined crown, and which sheds leaves annually.
 - c. *Significant Tree.* A healthy tree measuring a minimum of six (6) inches in diameter for deciduous trees, or a minimum of 12 feet in height for coniferous trees.
 - d. *Significant Tree Stand.* A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying 500 or more square feet of property, which are comprised of deciduous trees six (6) inches or larger in diameter or coniferous trees 12 feet or higher in height.
 - e. *Specimen Tree.* A healthy hardwood tree measuring equal to or greater than 30 inches in diameter and/or a coniferous tree measuring 50 feet or greater in height.
135. **Tree Certification.** A certified inventory of trees on the site after work is complete listing all trees and their final disposition, which is signed by a licensed forester or landscape architect.
136. **Tree Preservation Plan.** A plan and inventory certified by a forester or landscape architect indicating all of the significant trees and their locations in the proposed development or on the lot. The tree preservation plan shall include the size, species, tag numbers, and location of all significant trees proposed to be saved and removed on the area of development, and the measures proposed to protect the significant trees to be saved.
137. **Transient Merchant.** Any person, firm or corporation, whether a resident of the City of Brainerd or not, who engages temporarily in the business of selling and delivering goods, wares or merchandise within the City of Brainerd, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle or trailer.
138. **Transient Produce Merchant.** Any person who engages in or transacts in any temporary and transient business within the City selling products of the farm or garden occupied and cultivated by that person; and,

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who for the purposes of carrying on such business, hires, leases, occupies, or uses, a building, structure, vacant lot, motor vehicle trailer, or railroad car, on a site other than the property on which the produce is grown and cultivated in a zoning district where it is allowed by this Ordinance.

139. **Trucking Terminal.** Land or buildings used primarily as a relay station for the transfer of freight from one vehicle to another or one party to another rather than permanent or long-term storage. The terminal facility might include storage areas for trucks and buildings for truck maintenance and repair.
140. **Use.** The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained.
141. **Use, Permitted.** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.
142. **Use, Principal.** The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.
143. **Variance.** A modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation. A variance shall normally be limited to height, density and yard requirements.
144. **Warehousing.** The storage of materials or equipment within an enclosed building.
145. **Waterbody or Watercourse.** Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.
146. **Wetland.** Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.
147. **Wind Energy Conversion Systems (WECS).** Any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of useable energy.
148. **Wind Energy Conversion System, Small.** A wind energy conversion system consists of a wind turbine and associated control or conversion electronics and is used primarily to reduce on-site consumption of utility power. Small wind energy conversion systems are an administrative accessory use in residential districts and shall be attached to an existing principal building. A small wind energy conversion system shall not exceed a rated capacity of 100 kWh.
149. **Zoning Amendment.** A change authorized by the City either in the allowed use within a Base Zoning District, re-zoning to an Overlay Zoning District or alteration of the boundaries of a Base or Overlay Zoning District.
150. **Zoning District.** An area or areas within the limits of the City for which the regulations and requirements governing use are uniform as defined by this Ordinance.

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P - Permitted
AP - Administrative Permit
C - Conditional Use Permit
I - Interim Use Permit
Blank - Not Permitted

ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
RESIDENTIAL USES																	
Agriculture uses		P	P														
Accessory buildings under 200 SF	515-4-6	AP	AP	AP	AP	AP	AP	AP	AP								
Accessory buildings over 200 SF	515-4-6	P	P	P	P	P	P	P	P								
Accessory Dwelling Unit (ADU)		P	P	P	P/C	P/C	P/C	P	P/C								
Home businesses	515-3-19	P	P	P	P	P	P	P	P			P	P				
Home businesses not meeting criteria	515-3-19	AP	AP	AP	AP	AP	AP	AP	AP			AP	AP				
In home day care, serving no more than 14 persons		AP	AP	AP	AP	AP	AP	AP	AP								
Multi-family attached dwelling units (5+ Units)						C		C	P			C					
Mixed-Use Building, including residential uses not on main floor								C	C			C	C				
Model Homes	515-3-23	P	P	P	P	P	P	P	P	P	P	P	P				
Personal storage of recreational vehicles & equipment	515-3-31	P	P	P	P	P	P	P	P								
Recreational Facilities for private residential use		P	P	P	P	P	P	P	P								
Senior housing	515-3-33					P		P	P			C	C				
Single Family Detached Dwelling Unit	515-4-2	P	P	P	P	P	P	P	P			C					
Single Family Attached Dwelling Unit (2-4 Units)	515-4-2				P	P	P	P	P			P	P				
COMMERCIAL/GENERAL BUSINESS USES																	
Adult Establishments and/or Uses	515-3-4														C		

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Animal hospital, veterinary clinic, or kennels	515-3-5							C	C	C	C			C	C		
Armories										C					P		
Auto dealership	515-3-6									C	C			C	C		
Bed and breakfasts	515-3-9	C	C	C	C	C	C	C	C			C	C				
Boarding houses						C		C	C								
Brew Pub/Brewery (off-sale, on-sale, taproom, tasting room, etc.), cidery, microdistillery, cocktail room	515-3-10							C	C	C	C	C	C	P	P		
Car wash accessory to motor vehicle sales	515-3-13									P	P			P	P		
Commercial animal kennels	515-3-5	C	C												C		
Commercial car washes (drive-up, mechanical and self service)	515-3-13									C	C				C		
Commercial day care facilities	515-3-14	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Commercial greenhouses supporting the operations of a restaurant or floral shop	515-3-15							I	I	I	I	I	I				
Commercial riding stables	515-3-16	C															
Commercial/Retail establishments								P	P	P	P	P	P	P			
Commercial laundry facilities								C	C	P	P			P			
Drive-through business	515-3-17							C	C	P	P	C					
Contractor offices										C	C			P	P		
Cultural facilities such as museums, art centers, or art institute								P	P	P	P	P	P	P		P	
Drive-through Businesses	515-3-17								C	P	P	C					
Financial Institutions such as banks and credit unions										P	P	P	P				
Food Trucks (Transient food unit)	515-3-39									AP	AP	AP	AP	AP	AP	AP	AP
Funeral homes, mortuaries								C	C	C	C	C		C			

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Health clubs/Gyms/Indoor Recreation Facilities								P	P	P	P	P	P	P	P	P	
Hospitality businesses limited to hotels, motels, conference/convention/reception facilities	515-3-20							C	P	P	P	P	P				
Hospitality businesses – extended stay	515-3-20																
Liquor sales, on sale										P	P	P	P	P	P		
Liquor sales, off sale								P	P	P	P	P	P	P	P		
Motor vehicle fuel sales	515-3-24							C	C	C	C	C			C		
Nurseries, greenhouses (commercial)	515-3-15	P	P					C	C	C	C			C	C		
Nursing homes & similar group housing	515-3-25					C		C	C	C	C						
Off street parking lots or parking garages (as principal use)	515-3-30 515-4-12							C	C	C	C	C	C				
Office businesses – (general use, medical clinic)								C	C	P	P	P	P	P			
Outdoor dining facilities accessory to a restaurant	515-3-27							AP	AP	AP	AP	AP	AP				
Parking Lots	515-3-30							C	C	C	C	C	C	C	C	C	
Pawn shops								P	P	P	P	P	P	P			
Personal services such as barber/beauty shop, nail salon, tanning salon, therapeutic massage and spas.								P	P	P	P	P	P	P			
Private clubs & lodges								C	C	C	C	C	C	C			
Recreation Centers (large health clubs, gyms, etc.) exceeding 30,000 SF										C				C	P		
Restaurants – sit down, take out or delivery (no drive-up window)								P	P	P	P	P	P				
Retail businesses contained within a principal building								P	P	P	P	P	P	P			
Seasonal Merchandise Sales include fruit/vegetables, Christmas trees, plants and										AP	AP	AP					

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ancillary products in which less than one half of the product retailed is initially planted and raised therein																	
Senior center						C		C	C	C	C	C					
Short term rentals (VRBO, Air BnB, etc.)	515-3-34	I	I	I	I	I	I	I	I			I	I				
Signs	515-3-35	See Section 515-3-35 for Permit Requirements															
Specialty food shops	55-3-36							P	P	P	P	P	P				
State licensed residential facilities (serving 7-16 persons)						C		C	C	C	C						
Studios – art, dance, music, design, photography, etc								C	C	P	P	P	P				
Taxi or bus dispatch sites										P	P			P	P		
Telecommunication towers	515-3-42													AP	AP		
Temporary mobile towers.	515-3-42													AP	AP		
Temporary roadside stands		P	P	P													
Temporary/seasonal outdoor promotional events and sales	515-3-38							AP	AP	AP	AP	AP	AP	AP			
Theaters – except drive-in										P	P	P	P				
PUBLIC/SEMI-PUBLIC USES																	
Boarding Schools								C	C	C	C	C					
Business or trade school when conducted entirely within a building								C	C	P	P	C	C				
Cemeteries																C	
Colleges and universities										C	C					P	
Government & public buildings (including utility buildings and structures)			C	C	C	C	C	C	C	P	P	P	P	P	P	P	P
Hospitals						C		C	C	C	C					P	

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Forest and game management areas		C														P	P
Places of worship & related buildings		C	C	C	C	C	C	C	C	P	P	C	C	P	P	P	
Public & private schools		C	C	C	C	C	C	C	C	C	C	C		C	C	P	
Public recreation areas and buildings		P	P	P	P	P	P	P	P			C	C			P	
Public, semi-public recreational buildings, community centers		C	C	C	C	C	C	C	C			C	C			P	
Temporary classroom buildings (public or private schools)					I	I	I	I	I							I	
Trade/specialty schools.														C	C		
Warming shelters	515-3-41									I	I	I		I		I	
INDUSTRIAL AND UTILITY USES																	
Auto wrecking or salvage yard, junk yard, used auto parts, and similar uses.	515-3-8														C		
Automobile and truck repair – major and minor (including body shops)	515-3-7									C	C			C	C		
Billboard signs	515-3-35													I	I		
Bulk liquid storage (including crude oil, gasoline, liquid fertilizer, or other liquid storage)	515-3-11														C		
Coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing.	515-3-12														C		
Commercial/retail sales accessory to the principal manufacture, processing or wholesaling of products manufactured on, processed on or wholesaled from the premises.														P	P		
Commercial stockyards and slaughtering of animals provided that the use complies with all Federal regulations including USDA rules and regulations.															C		
Machine shops; paper products from previously processed paper; electronics assembly and														P	P		

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testing; commercial printing and publishing establishments; laundry, dry cleaning or dying plants; food/beverage processing; cosmetics/toiletries; drugs and pharmaceuticals; beverage bottling; recycling center; woodworking (indoors)																	
Construction equipment sales and repair										C				P	P		
Electrical/Plumbing/Heating/Air Conditioning products and parts										C				P	P		
Equipment rental (indoor)										P	P			P	P		
Essential services	515-3-18	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Kilns, forges or other heat processes fired by means other than electricity.															C		
Light manufacturing										C	C			P	P		
Metal Sales such as steel and other raw materials														P	P		
Mini self-storage facilities.	515-3-21														C		
Mining and extraction	515-3-22	I															
Outdoor service, sales and rental as a principal or accessory use.	515-3-28													C	C		
Outdoor storage accessory to a principal use with enclosed building.	515-2-26									C				C	P		
Outdoor storage as a principal use	515-2-26														I		
Personal wireless service towers	515-3-42	C	C	C	C	C	C	C	C	AP	AP	AP	AP	AP	AP		
Outdoor wood burning furnaces, placement and operation	515-3-29														C		
Radio & television antennas	515-3-42	AP	AP	AP	AP	AP	AP	AP	AP								
Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave	515-3-42									AP	AP	AP	AP	AP	AP		

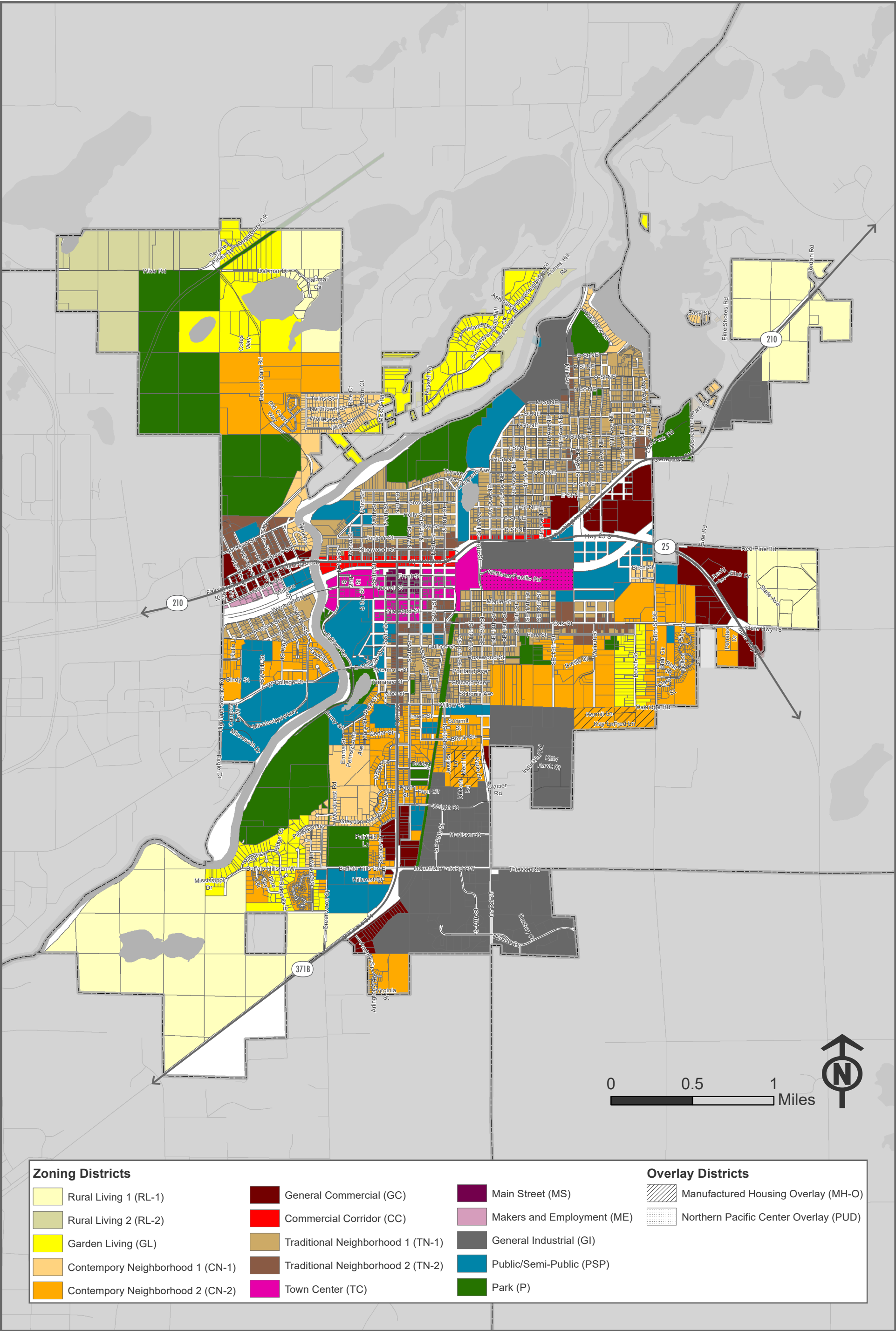
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dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers																	
Radio and television studios										C	C			P	P		
Sale of parts and sale and repair of tires for construction equipment and semi tractor trailers														P	P		
Sales and distribution of propane, acetylene, helium, CO2 and similar tanks															P		
Refuse/garbage collection, recycling and incineration	515-3-32														C		
Regional pipelines		C												C	C		
Research and development laboratories														P	P		
Residence for night watchman or other security personnel														AP	AP		
Self-service laundromat with dry cleaning pick up and drop off								C	C	P	P	P		P			
Small engine and boat repair								C	C	C	C			P	P		
Solar energy systems, structures		AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP		
Storage, utilization or manufacture of materials which could decompose by detonation, including but not limited to dynamite, trinitrotoluene (TNT), nitroglycerine, guncotton, blasting caps and cartridge primers.	515-3-37														C		
Testing labs for water and soil, rocks/minerals and air quality										P	P			P	P		
Tire vulcanizing and recapping.															P		
Truck and semi-tractor/trailer sales and repair	515-3-7													C	P		
Truck terminals.	515-3-40														C		

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Section 515-3 ALLOWED USES.
APPENDIX A: TABLE OF USES

ZONING DISTRICT	Section Reference	RL-1	RL-2	GL	CN-1	CN-2	TN-1	TN-2	TN-3	GC	CC	TC	MS	ME	GI	PSP	P
Warehousing, distribution facilities and wholesale businesses.														C	P		
Wind energy conversion system		I	I												I		





Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: First Reading - Proposed Ordinance 1528 - An Ordinance Replacing Section 1135

☐ 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: Chief Mike Bestul	Department: Police
Presenter (Name & Title): Chief Mike Bestul	Estimated Time Needed: 3 minutes
Summary of Issue: The current City Code 1135 - Tobacco and Related Products needs to be updated with new language addressing the T21 (under 21 years of age) in accordance with Minnesota State Statute, 609.685, which went into effect on August 1, 2020. In addition to that language is also addressed issues such as administrative penalties regarding retailers selling tobacco and related products to persons under the age of 21 and compliance checks of retailers, see attached Proposed Ordinance No. 1528.	
Alternatives, Options, Effects on Others/Comments: The City Attorney has reviewed the Proposed Ordinance No. 1528.	
Recommended Action/Motion: Motion to hold/dispense with the first reading of Proposed Ordinance No. 1528; an ordinance replacing Section 1135 of the Brainerd City Code with updated language on tobacco and related products, dispense with the actual reading, and set the public hearing for April 4th, 2022 at 7:30pm.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☒ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

Section 1135 – Tobacco, Tobacco Products, and Tobacco Related Products

1135.01 Purpose. Because the City recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco related devices, and electronic delivery devices, and such sales, possession, and use are violations of both State and Federal laws; and because studies have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, and electronic delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco related devices, and electronic delivery devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. §144.391.

1135.03 Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them.

Subd. 1. Tobacco or Tobacco Products. "Tobacco" or "Tobacco products" shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

Subd. 2. Tobacco Related Devices. "Tobacco related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Subd. 3. Self-Service Merchandising. "Self-Service Merchandising" shall mean open displays of tobacco, tobacco products, tobacco related devices, or electronic delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, or electronic delivery devices without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device, or electronic delivery device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 4. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, or electronic delivery devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, tobacco related device, or electronic delivery device.

Subd. 5. Individually Packaged. "Individually packaged" shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack, cigars or other container as described in this subdivision shall not be considered individually packaged.

Subd. 6. Loosies. "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7. Minor. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco products, tobacco related devices, or electronic delivery devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 9. Moveable Place of Business. "Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10. Sale. A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 11. Compliance Checks. "Compliance Checks" shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, and electronic delivery devices are following and complying with the requirements of this Ordinance. Compliance Checks shall involve the use of minors as authorized by this Ordinance. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco related devices, or electronic delivery devices for educational, research and training purposes as authorized by State and Federal laws. Compliance Checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or Local laws and regulations relating to tobacco, tobacco products, tobacco related devices, and electronic delivery devices.

Subd. 12. Electronic Delivery Device. “Electronic Delivery Device” shall mean any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose

1135.05 License. No person shall sell or offer to sell any tobacco, tobacco products, tobacco related devices, or electronic delivery devices without first having obtained a license to do so from the City.

Subd. 1. Application. An application for a license to sell tobacco, tobacco products, tobacco related devices, or electronic delivery devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's address and telephone number, the name and address of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled meeting. If the City Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2. Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the City Administrator shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

Subd. 3. Term. All licenses issued under this Ordinance shall be valid beginning on the date of issuance and shall expire on December 31 of each year.

Subd. 4. Revocation or Suspension. Any license issued under this Section may be revoked or suspended as provided in the Violations and Penalties Sections herein.

Subd. 5. Transfers. All licenses issued under this Section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person is allowed.

Subd. 6. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Section.

Subd. 7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensee's premise.

Subd. 8. Renewals. The renewal of a license issued under this Section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license issued under this Section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

1135.07 Fees. No license shall be issued under this Section until the appropriate license fee shall be paid in full. The fee for a license issued pursuant to this Section is fixed by Chapter X of the City Code.

1135.09 Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this Section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section.

- A) The applicant is under the age of 18 years.
- B) The applicant has been convicted within the past five years of a Federal, State, or Local law, ordinance/code provision, or other regulation relating to tobacco or tobacco products, tobacco related devices, or electronic delivery devices.
- C) The applicant has had a license to sell tobacco, tobacco products, tobacco related devices, or electronic delivery devices revoked within the preceding twelve months of the date of application.
- D) The applicant fails to provide any information required on the application, or provides false or misleading information.
- E) The applicant is prohibited by Federal, State, or other Local law, ordinance, code or other regulation, from holding such a license.

1135.11 Prohibited Sales. It shall be a violation of this Ordinance for any person to sell or offer to sell any tobacco, tobacco product, tobacco related device, or electronic delivery device:

- A) To any person under the age of eighteen (18) years.
- B) By means of any type of vending machine, except as may otherwise be provided in this Section.

- C) By means of self service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco related device, or electronic delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, or electronic delivery device between the licensee or the licensee's employee, and the customer.
- D) By means of loosies as defined in Section 1135.03.
- E) Containing opium, morphine, jimsonweed, belladonna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
- F) By any other means, to any other person, or in any other manner or form prohibited by Federal, State or other Local law, ordinance provision, code or other regulation.

1135.13 Vending Machines. It shall be unlawful for any person licensed under this Section to allow the sale of tobacco, tobacco products, tobacco related devices, or electronic delivery devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

1135.15 Self-Service Sales. It shall be unlawful for a licensee under this Section to allow the sale of individually packaged tobacco, tobacco products (as defined in Section 1135.03 Subd. 5), tobacco related devices, or electronic delivery devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, the tobacco related device, or the electronic delivery device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, tobacco related devices, and electronic delivery devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, tobacco related devices, or electronic delivery devices at the time this Section is adopted shall comply with this Section within 90 days.

1135.17 Responsibility. All licensees under this Section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, or electronic delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this Section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Section, State or Federal law, or other applicable law or regulation.

1135.19 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the Brainerd Police Department or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco related devices, or electronic delivery devices. Minors used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, tobacco related devices, or electronic delivery devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for education, research, or training purposes, or required for the enforcement of a particular State or Federal law.

1135.21 Other Illegal Acts. Unless otherwise provided, the following acts shall be violation of this Section:

Subd. 1. Illegal Sales. It shall be a violation for any person to sell or otherwise provide any tobacco, tobacco product, tobacco related device, or electronic delivery devices to any minor.

Subd. 2. Illegal Possession. It shall be a violation for any minor to have in his or her possession any tobacco, tobacco product, tobacco related device, or electronic delivery device. This Subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 3. Illegal Use. It shall be a violation for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device, or electronic delivery device.

Subd. 4. Illegal Procurement. It shall be a violation for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, or electronic delivery device and it shall be a violation of this Section for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device, or electronic delivery device. This Subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 5. Use of False Identification. It shall be a violation for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

1135.23 Violations. Subdivision 1. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

Subd. 2. Hearings. If a person accused of violating this Section so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The City Council shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this Section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 1135.25 of this Section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

Subd. 5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred.

Subd. 6. Misdemeanor Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this Section. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

Subd. 7. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

1135.25 Penalties. Subdivision 1. Licensees and Employees. Any licensee found to have violated this Ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75 for a first violation; \$200 for a second offense at the same licensed premises within a twenty-four month period; and \$250 for a third or subsequent offense at the same location within a twenty-four month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

Subd. 2. Other Individuals. Other individuals, other than minors regulated by Subdivision 3 of this Subsection, found to be in violation of this Subsection, found to be in violation of this Ordinance shall be charged an administrative fee of \$50.

Subd. 3. Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco related devices, or electronic delivery devices shall be charged an administrative fine of \$25 for a first violation; \$50 for a second offense within a twenty-four month period; and \$100 for a third or subsequent offense within a twenty-four month period.

Subd. 4. Misdemeanor. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this Section.

1135.27 Exceptions and Defenses. Nothing in this Section shall prevent the providing of tobacco, tobacco products, tobacco related devices, or electronic delivery devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this Section for a person to have reasonably relied on proof of age as described by State law.

1135.29 Severability and Savings Clause. If any section or portion of this Section shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other section or provision of this Section.

(Amended Ord. 1035 – 1997, Ord. 1422 - 2014)

**ORDINANCE
NO. 1528**

**AN ORDINANCE REPLACING SECTION 1135 OF THE BRAINERD CITY CODE WITH
UPDATED LANGUAGE ON TOBACCO AND RELATED PRODUCTS.**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: That Section 1135 be deleted in its entirety and replaced with the following language:

Section 1135 – Tobacco and Related Products

1135.01 Purpose. The City hereby adopts the Minnesota legislature’s finding, as stated in Minn. Stat. § 144.391, that: (1) smoking causes premature death, disability, and chronic disease, including cancer and heart disease, and lung disease; (2) smoking related diseases result in excess medical care costs; and (3) smoking initiation occurs primarily in adolescence. The City also adopts the legislature’s desire to prevent young people from starting to smoke, to encourage and assist smokers to quit, and to promote clean indoor air. The City recognizes that the sale of tobacco-related products to persons under the age of 21 violates both state and federal law. Because the City recognizes that many persons under the age of 21 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products and that such sales, possession, and use are violations of State and Federal laws; and pursuant to the mandates contained in state and federal law this ordinance is intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws and state mandates, and to protect the public against the serious effects associated with the use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products. The purpose of this ordinance is to reduce the appeal to youth and young adults and reduce the likelihood that youth and young adults will become users of tobacco-related products later in life, thereby promoting health, safety, and welfare.

1135.03 Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive. The following terms shall have the definitions given to them.

Subd. 1. Tobacco or Tobacco Products. “Tobacco” means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether

chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Subd. 2. Tobacco Related Devices. "Tobacco Related Devices" means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

Subd. 3. Self-Service Merchandising. "Self-Service Merchandising" means open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery products in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices electronic delivery devices, and nicotine or lobelia delivery products without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery products between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 4. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco products, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery products. A device by which licensee or licensee's employee must insert the payment in order to operate the machine is not a vending machines for the purpose of this definition.

Subd. 5. Loosies. "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

Subd. 8. Moveable Place of Business. "Moveable Place of Business" shall refer to any retail business whose physical location is not permanent, including, but not limited to, any retail

business that is operated from a kiosk, other transportable structure, or motorized or nonmotorized vehicle.

Subd. 9. Sale. A “sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 10. Compliance Checks. “Compliance Checks” shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products are following and complying with the requirements of this ordinance. Compliance Checks may involve the use of persons under the age of 21 as authorized by this ordinance. Compliance checks shall also mean the use of person under the age of 21 who attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or Local laws and regulations relating to tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products.

Subd. 11. Electronic Delivery Device. “Electronic Delivery Device” means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Subd. 12. Child-Resistant Packaging. “Child-Resistant Packaging” is packaging that meets the definition as set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, when tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

Subd. 13. Nicotine or Lobelia Delivery Products. “Nicotine or Lobelia Delivery Products” are any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

1305.05 License. No person shall sell or offer to sell any tobacco, tobacco products, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery products without first having obtained a license to do so from the city.

Subd. 1. Application. An application for a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products

shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled council meeting. If the City Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. 2. Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the City Administrator shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

Subd. 3. Term. All licenses issued under this Ordinance shall be valid beginning on the date of issuance and shall expire on December 31 of each year.

Subd. 4. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties Sections herein.

Subd. 5. Transfers. All licenses issued under this Section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person is allowed.

Subd. 6. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Section.

Subd. 7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise

Subd. 8. Renewals. The renewal of a license issued under this Section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license.

1135.07 Fees. No license shall be issued under this Section until the appropriate license fee shall be paid in full. The fee for a license issued pursuant to this Section is fixed by Chapter 10 of the City Code.

1135.09 Basis for Denial of License.

Subd. 1. The following shall be grounds for denying the issuance or renewal of a license under this Section.

A) The applicant is under 21 years of age.

B) The applicant has been convicted within the past five years of a Federal, State, or Local law, ordinance/code provision, or other regulation relating to licensed products.

C) The applicant has had a license to sell licensed products suspended or revoked within the preceding twelve months of the date of application.

D) The applicant fails to provide any information required on the application or provides false or misleading information.

E) The applicant is prohibited by Federal, State, or other Local law, ordinance, code, or other regulation, from holding such a license.

Subd. 2. Except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license.

Subd. 3. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section. The City will provide the license holder with a notice of revocation, along with information on the right to appeal.

1135.11 Prohibited Sales and Offers.

Subd. 1. Persons under 21. No person shall sell, offer to sell, or otherwise provide any tobacco, tobacco products, tobacco related device electronic delivery devices, or nicotine or lobelia delivery products to any person under the age of twenty-one (21) years.

A) *Age verification.* Licensee must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years or older does not constitute a defense or violation of this subdivision.

B) *Signage.* Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where tobacco, tobacco products, tobacco related device electronic delivery devices, or nicotine or lobelia delivery products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 2. Self-Service Sales. No person shall sell, offer to sell, or otherwise provide any tobacco or tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products in open displays which are accessible to the public without the intervention of a store employee that includes a physical exchange of the tobacco products, tobacco devices, electronic delivery devices, or nicotine or lobelia delivery products. This shall not apply to retail establishments which derive at least 90 percent of their revenue from tobacco and tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products and where the retailer ensures that no person younger than 21 years of age is present or permitted to enter at any time.

Subd. 3. Controlled Substances. No person shall sell, offer to sell, or otherwise provide any tobacco, tobacco products, tobacco related device electronic delivery devices, or nicotine or lobelia delivery products containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine or other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.

Subd. 4. Sampling. No person shall distribute any tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia products free of charge.

Subd. 5. Loosies. No person shall distribute any tobacco, tobacco related devices, electronic delivery devices, or nicotine or lobelia products by means of loosies.

Subd. 6. Vending Machines. No person shall allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products by the means of a vending machine. This subdivision does not apply to vending machines in facilities that cannot be entered at any time by persons under the age of 21 years.

Subd. 7. Liquid Packaging. The sale of any liquid, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device that is not contained in packaging that is child-resistant is prohibited. All licensees under this chapter must ensure that any liquid intended for human consumption and use in an electronic delivery device is sold in child-resistant packaging. A licensee that fails to comply with this section is subject to administrative penalties as defined in Section 1135.21, subd. 1.

Subd. 8. Kiosk Sales. No person shall sell tobacco, tobacco related devices, or electronic delivery devices as defined in Minn. Stat. § 609.685, subd. 1, or nicotine or lobelia delivery products as described in section 609.6855 from a moveable place of business as defined in Section 1135.03, subd. 8.

Subd. 9. Other Prohibitions. No person shall sell, offer to sell, or otherwise provide any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery product by any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other Local law.

1135.13 Responsibility. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery product on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the employee to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

1135.15 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the Brainerd Police Department or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct

compliance checks by engaging persons over the age 17 years but less than 21 years, with the written consent of their parents or guardians if under the age of 18 years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products. Persons who are used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Persons under 21 years of age who are used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products when such items are obtained as a part of the compliance check. No person under 21 years of age who is used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check shall answer all questions about the person's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

1135.17 Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance.

Subd. 1. Illegal Possession. It shall be a violation of this ordinance for any person under the age of 21 to have in his or her possession any tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine or lobelia delivery product. This subdivision shall not apply to persons under the age of 21 lawfully involved in a compliance check.

Subd. 2. Illegal Use. It shall be a violation of this ordinance for any person under the age of 21 to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine or lobelia delivery product.

Subd. 3. Prohibited Furnishment or Procurement. It shall be a violation of this ordinance for any person under 21 years of age to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery products and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a person under 21 years of age. It shall further be a violation for any person to coerce or attempt to coerce a person under 21 years of age to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device electronic delivery devices, or nicotine or lobelia delivery products. This subdivision shall not apply to persons under 21 years of age who are lawfully involved in a compliance check.

Subd. 4. Use of False Identification. It shall be a violation of this ordinance for any person under 21 years of age to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

1135.19 Violations.

Subd. 1. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation from the City that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation, and how and where a hearing may be requested, including a contact address and phone number.

Subd. 2. Hearings. Upon issuance of a citation, a person accused of violating this Section may request in writing a hearing on the matter. Hearing requests must be made within ten business days of the issuance of the citation and delivered to the City Clerk or other designated city officer. Failure to properly request a hearing within ten business days of the issuance of the citation will terminate the person's right to a hearing. If a person accused of violating this Section submits a timely request for a hearing, the City Clerk or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and location will be mailed or delivered to the accused violator at least ten business days prior to the hearing.

Subd. 3. Hearing Officer. The City Council shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this Section did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 1135.21 of this Section, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded, and a copy provided to the acquitted accused violator

Subd. 5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred within ten business days of the date of the decision.

Subd. 6. Misdemeanor Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this Section by a person 21 years of age or older. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

Subd. 7. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

1135.21 Administrative Penalties.

Subd. 1. Licensees. Should any licensee be found to have violated this ordinance, or whose employee shall have violated this ordinance, the licensee shall be charged an administrative fine of \$300 for a first violation; \$600 for a second offense at the same licensed premises within a 36 month period; and \$1,000 for a third or subsequent offense at the same

location within a 36 month period. In addition, after the third offense within a 36 month period, the license shall be suspended for not less than 30 consecutive days. Upon a fourth violation within a 36 month period, the license will be revoked.

Subd. 2. Other Individuals and Employees. Employees of licensees and other individuals, other than persons under the age of 21 regulated by Subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fine of \$50

Subd. 3. Persons under the Age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the City determines to be appropriate. The City Council will consult with interested persons, as applicable, including but not limited to court personnel, educators, parents, guardians, and persons under the age of 21 years to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.

Subd. 4. Statutory Penalties. If the administrative penalty authorized to be imposed by [Minn. Stat. § 461.12](#), as it may be amended from time to time, differ from that established in this section, then the higher penalty will prevail.

1135.23 Exceptions and Defenses. Nothing in this Section shall prevent the providing of tobacco, tobacco products, tobacco related devices to a person under 21 years of age as a part of a lawfully recognized religious, spiritual, or cultural ceremony. It is an affirmative defense to the charge of selling tobacco, tobacco-related products, electronic delivery devices, or nicotine or lobelia delivery products to a person under 21 years of age for a person to have reasonably relied on proof of age as described by state law.

1135.25 Severability and Savings Clause. If any section or portion of this Section shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this Section

1135.26 Signage. All licensees shall post and display in plain view of the general public on the licensed premise, a sign supplied by the City, which shall provide public notice that selling tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to any person under the age of 21 is illegal and subject to penalties. The sign shall also provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age. The sign shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. Said signs shall be issued to the licensee along with their license.

SECTION TWO : That this Ordinance shall be in full force and take effect one week from and after its publication.

Adopted this ____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this ____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Consideration of Interim Use Permit for Commercial Greenhouse

☐ 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: Community Development Director	Department: Community Development
Presenter (Name & Title): David Chanski, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: Steven Zelinske has submitted a request on behalf of Yesterday's Gone for an Interim Use Permit to operate a commercial greenhouse supporting the operations of a licensed food establishment at an unaddressed parcel with an ID number of 41241525.	
Alternatives, Options, Effects on Others/Comments: The Planning Commission will be considering this Interim Use Permit request during their meeting on March 16. As the City Council packet has been published prior to the Planning Commission's meeting, the Planning Commission's recommendation will be provided to the Council following their meeting. As the current Zoning Code prohibits the use of flexible, rolled material as a greenhouse covering (Mr. Zelenski is proposing to use a double layer of 6 millimeter polyethylene film), should the Planning Commission recommend approval of this Interim Use Permit, such an approval will be contingent on the adoption of the proposed zoning code that will include flexible, rolled material as an allowed greenhouse covering per the City Council's direction given on March 7th.	
Recommended Action/Motion: Motion to accept the Planning Commission's recommendation to (approve or deny) an Interim Use Permit for a commercial greenhouse to support the operations of Yesterday's Gone at PID 41241525.	
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: Planning Commission

FROM: James Kramvik, Assistant Planner

DATE: March 10th, 2022

RE: Interim Use Permit for Commercial Greenhouse

Steven Zelinske has submitted a request on behalf of Yesterday's Gone for an Interim Use Permit to operate a commercial greenhouse supporting the operations of a licensed food establishment at an unaddressed parcel with an ID number of 41241525.

Findings of Fact

1. Parcel number 41241525 is currently located in a B-3 (Central Business) District.
 - a. The parcel will be located in the TC-1 (Town Center) District upon adoption of the proposed zoning code and zoning map.
2. The operation of a commercial greenhouse supporting the operations of a licensed food establishment requires an Interim Use Permit in a TC-1 Town Center District per section 515-3-15.A of the proposed zoning code.
3. Approval of this Interim Use Permit must contingent upon the adoption of the new zoning code and zoning map.
4. Commercial greenhouses supporting the operations of a floral shop or licensed food establishment must comply with the following minimum standards: as required by the aforementioned section of the proposed zoning code:
 - a. Structure framing shall be treated wood, aluminum, or steel and shall be covered by materials as regulated by Section 515-4-6 of this Ordinance.
 - i. *The proposed greenhouse structure will be constructed with a galvanized steel frame and covered with a double layer of 6mil polyethylene film.*
 - ii. *Currently, the Zoning Code prohibits the use of flexible, rolled material as a greenhouse covering. However, on March 7th, the City Council directed staff to included flexible, rolled material as an allowed greenhouse covering in the proposed zoning code.*
 - b. Structure shall not exceed fifteen (15) feet in height.
 - i. *The proposed greenhouse height is 12'10" high x 24' wide x 72' long*
 - c. Structure may be located on a separate lot from the licensed food establishment or floral shop it supports provided that:
 - i. The lot is within one-hundred fifty (150) feet of the business.
 1. *The vacant lot that is proposed for construction of the greenhouse is located 20 FT across the alley from Yesterday's Gone.*
 - ii. The structure shall meet the setback requirements of the Base Zoning District or 10 feet from all property lines, whichever is greater.

1. *The proposed green house site plan meets the setback requirements. While the TC-1 District has the potential for zero-yard setbacks on all boundaries, the required setback for a greenhouse in this district is 10 feet from all property lines. The proposed greenhouse will have a 10' northern and a 16' southern side yard setback. The proposed front yard setback is 24'. The proposed rear yard setback is 20'.*
 - d. No outdoor storage.
 - e. Indoor storage shall be limited to material incidental to the operation of a greenhouse.
 - f. Should the licensed food establishment or floral shop cease operations, the greenhouse must be removed within 60 days
 - g. Sales shall only occur at the principal place of business that is supported by the greenhouse.
 - i. *The applicant plans to use the proposed greenhouse to produce food and herbs for Yesterday's Gone. There will be no direct sales on the greenhouse property.*
5. The applicant has also proposed the construction of a chain link fence around the property if the greenhouse is approved and constructed. The fence will require an administrative permit and must comply with section 515-4-11 Fence Standards in the proposed zoning code.
6. The applicant will be required to apply for a commercial building permit as the structure is over 200 sq. ft. The proposed greenhouse must meet all Building Codes, City Codes, and Zoning Codes. The proposed greenhouse will be reviewed by the City of Brainerd Building Official, Zoning Administrator, and City Engineer prior to issuance of the permit. The commercial building permit must be issued prior to construction of the proposed greenhouse.

As of this writing, no one has contacted the Community Development Department with concerns or objections to the Interim Use Permit.

Staff Opinion

Staff recommends approval of this Interim Use Permit contingent upon adoption the proposed zoning code.



City Planning Department

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

Receipt # _____
Check # _____
Date paid: _____

INTERIM USE PERMIT

Application Form (residential - \$250.00 / commercial - \$500.00 + \$500.00 escrow deposit)

(This form must be filled out completely before your application will be accepted)

Property Address for this Interim Use Permit: 219 SOUTH 9TH STREET

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use

Permit to allow COMMERCIAL GREENHOUSE

WITH 8 FEET TALL CHAIN LINK FENCE
AROUND THE PERIMETER

_____ at the property address listed above until the date of _____

Legal Description (attach, if lengthy): Lot 344 Block 37 Addition FIRST ADDITION
& LAUREL STREET

Property Owner: STEVEN ZELDINSKE

Address: 15965 COUNTY RD 25 BRainerd MN 56401
(Street) (City) (State) (Zip)

Contact Information #: 218-270-0365
(Home)

218-824-2050
(Business)

(Fax)

vgone@brainerd.net
(E-mail)

Applicant: (if different than Property Owner) _____

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

Contact Information #: _____
(Home) (Business)

(Fax)

(E-mail)

Contact Person: (if different than Property Owner) _____

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

Contact Information #: _____
(Home) (Business)

(Fax)

(E-mail)

2/28/22

Site plan for proposed Greenhouse Project at Yesterdays Gone

Our intent is to mirror the year-round Greenhouse at Central Lakes College using the same type of groundcover and same anchoring technique.

Groundcover; Landscape Fabric over graded soil (as seen in picture)

Anchoring; 3" galvanized roll form anchor sleeve will be set 5 feet below grade and secured with concrete in form tubes

Anchors will protrude 18 inches above grade, lower side sashes will seat into anchors and be secured with a pin. (as seen in picture)

There will be a total of 36 anchors

Dimensions- 24' wide x 72' long x 12'10" high

Sidewalls- 6' high

Frame- galvanized steel 18 gauge

Covering- double layer of 6mil polyethylene film

Arches- (2) piece arch, 9 ½ " roll formed galvanized steel

Purlins- (1) run 5" rollform under peak. (4) runs under arch

Lot will be enclosed with an 8' tall chain link fence with two 10' wide gates one on East side and one on West side.

We will need to have power ran to this lot.

We will not need city water at this lot.

Thank you

Steve Zelinske

218-270-0365

ygone@brainerd.net

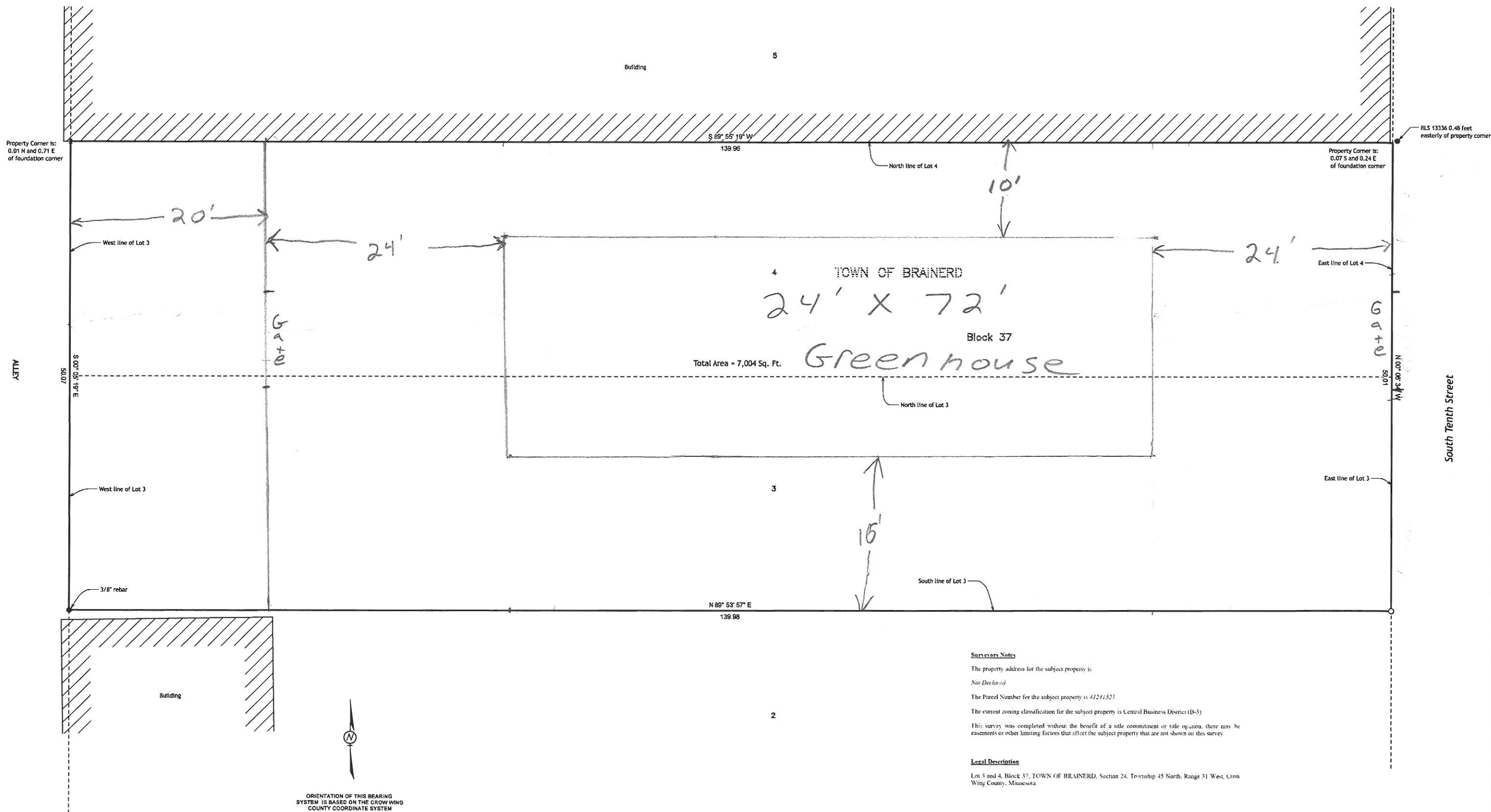




FLOOR



ANCHOR



Surveyors Notes

The property address for the subject property is:
Not Declared

The Parcel Number for the subject property is 41241523.

The current zoning classification for the subject property is Central Business District (B-3).

This survey was completed without the benefit of a title commitment or title opinion, there may be easements or other limiting factors that affect the subject property that are not shown on this survey.

Legal Description

Lot 3 and 4, Block 37, TOWN OF BRAINERD, Section 24, Township 45 North, Range 31 West, Crow Wing County, Minnesota.

PROPERTY BOUNDARY LEGEND

○ SET IRON PIPE WITH CAP STAMPED "KRAMER 23668"

● FOUND IRON MONUMENT

X COMPUTED POSITION



NO.	REVISIONS SINCE INITIAL DATE OF	DATE



KRAMER LEAS DELEO
SURVEYING • ENGINEERING • PLANNING
BRAINERD ST. CLOUD

1120 Industrial Park Road
Brainerd, MN 56401
218-824-4333

12 POWER 10TH AVENUE
ST. CLOUD, MN 56302
202-258-1265

I HEREBY CERTIFY THAT THIS PLAN, SURVEY, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Signature: *James Kramer* 07/30/2020
James Kramer, License No. 23668 Date

CERTIFICATE OF SURVEY
Topographic and Property Boundary Survey

Beaver Zelinski
Section 24, Township 45 North, Range 31 West
Crow Wing County, Minnesota

PROJECT NO. ZELIB2001

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Steven Zelinske has submitted a request on behalf of Yesterday's Gone for an Interim Use Permit to operate a commercial greenhouse supporting the operations of a restaurant. The property included in this application is located across the alley from Yesterday's Gone and is described as:

LOTS 3 & 4 BLOCK 37 TOWN OF BRAINERD & FIRST ADDITION TO BRA

P.I.N. 41241525

Section 24, Township 45, Range 31

The property is zoned B-3 (Central Business District), and Zoning Ordinance Section 515-62-5 (Central Business District) Interim Uses permits the operation of a commercial greenhouse supporting the operations of a restaurant provided that it meets the required provisions as listed under 62-5.A. A copy of the site plan for the proposed greenhouse is on file for review at the Community Development Department.

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

Any individual needing special accommodations or would like more information about this request, please call (218) 828-2309.

Dated this 2nd day of March 2022



David C. Chanski, MPA
Community Development Director

Publication Date: March 6th, 2022



Brainerd City Council Agenda Request

Requested Meeting Date: March 21, 2022

Title of Item: Consideration of Interim Use Permit for Short Term Rental

☐ 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: Community Development Director	Department: Community Development
Presenter (Name & Title): David Chanski, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: Kelly Woodman has submitted a request for an Interim Use Permit to operate a short term rental at 704 Fir St.	
Alternatives, Options, Effects on Others/Comments: The Planning Commission will be considering this Interim Use Permit request during their meeting on March 16. As the City Council packet has been published prior to the Planning Commission's meeting, the Planning Commission's recommendation will be provided to the Council following their meeting.	
Recommended Action/Motion: Motion to accept the Planning Commission's recommendation to (approve or deny) an Interim Use Permit for a short term rental at 704 Fir St.	
Financial Impact: Is there a cost associated with this request: ☐ Yes ☒ No What is the total cost, with tax and shipping \$ _____ Is this budgeted? ☐ Yes ☐ No <u>Please Explain:</u>	

MEMO



TO: Planning Commission

FROM: James Kramvik, Assistant Planner

DATE: March 10th, 2022

RE: Interim Use Permit for Short Term Rental

Kelly Woodman has submitted a request for an Interim Use Permit to operate a short term rental at 704 Fir St.

Findings of Fact

1. 704 Fir St. is currently located in a R-1 (Single Family Residential) District.
 - a. 704 Fir St. will be located in TN-1 (Traditional Neighborhood 1) District upon adoption of the proposed zoning code and zoning map.
2. The operation of a short-term rental requires an Interim Use Permit in a R-1 Single Family District per section [515-54-4.6](#) of the Code of Ordinances.
 - a. The operation of a short term rental is also an Interim Use in the TN-1 District per section 515-3-34 of the proposed zoning code.
3. Short-term rentals must comply with the following minimum standards: as required by the aforementioned section of the Code:
 - a. The minimum rental period shall not be more than 28 consecutive nights.
 - i. *The applicant understands that she must inform staff when the property is being used as long-term rental. A long term rental is any lease that exceeds 28 days.*
 - b. The permit holder (owner) of a short term rental must apply for and receive an interim use permit. Owner occupied dwellings that are also short term rentals do not require an interim use permit.
 - i. *This is not an owner-occupied dwelling and therefore requires an interim use permit to operate as a short term rental.*
 - c. The application for an interim use permit shall include:
 - i. All information required for a conditional use permit.
 1. *This requirement in the current zoning code has been removed in the proposed zoning code because the submittal list in the short-term rental section is very detailed. All required information in the proposed zoning code has been submitted by the applicant.*
 - ii. Floor plan of the structure, including the number of bedrooms with dimensions and all other sleeping accommodations.
 1. *The proposed zoning code does not require a floor plan. However, the applicant must state the number of bedrooms with dimensions and all other sleeping accommodations. The*

applicant has provided the following information regarding the bedrooms to be made available for rent:

- a. *Bedroom 1: 11 x 16 (currently has a king size bed)*
 - b. *Bedroom 2: 11 x 11 (currently has a queen size bed)*
 - c. *Bedroom 3: 13 x 9 (currently has a full size bed)*
 - d. *Bedroom 4: 12 x 13 (currently has a king size bed)*
 - e. *Bedroom 5: 6 x 8 (this currently is a large walk-in closet that has 2 egress windows in it and a separate entrance to the hallway that the applicant would like to convert into a room with a dresser and twin bed).*
 - i. *[Section 425.810](#) of the City Code states that "Rooms used exclusively for sleeping purposes shall have the following minimum superficial floor area, seventy (70) square feet for one person, ninety (90) square feet for two (2) persons and the required superficial floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2)." Therefore, this space is ineligible to be used as a rental bedroom.*
 - f. *The house has 3,000 finished sq. ft. with a fully stocked kitchen, dining room, living room, wi-fi, theatre room, and laundry room.*
- iii. *A to-scale site plan which shows locations and dimensions of property lines, the dwelling unit intended for licensing, accessory structures, parking areas and shoreland recreational facilities.*
 1. *A GIS map of the property has been included as an additional document.*
 - iv. *A plan for garbage disposal by the permit holder.*
 1. *The applicant indicates she maintains a contract with Waste Partners for weekly pickup of trash removal and that she will bring the garbage to the street on Wednesday night for pickup on Thursday morning.*
 - v. *A pet policy.*
 1. *The applicant indicates there will be a NO PET policy.*
- d. *The permit holder shall post emergency contact information (police, fire, hospital) and show renters the location of fire extinguishers in the short term rental unit.*
 - i. *The applicant will verify with City staff that emergency contact information and the location of fire extinguishers has been posted for renters prior to occupancy.*
 - e. *A permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder shall notify all property owners within 100' of the property boundary within 10 days of a change in the managing agent or local contact's contact information.*

- i. *The proposed zoning code will require that the managing agent's contact information is accessible to the public at all times on the City of Brainerd website.*
- f. A permit holder must disclose in writing to their renters the following information:
 - i. The managing agent or local contact's name, address, and phone number.
 - 1. *The applicant indicates that this information would be provided through the booking website.*
 - ii. The maximum number of guests allowed at the property
 - 1. *The applicant indicates that 9 total guests would be the maximum number of guests allowed.*
 - iii. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked.
 - 1. *The front driveway along with a 36' x 36' rear parking area allows for a total of 6 off street parking spaces at the property.*
 - iv. Property rules related to use of exterior features of the property, such as decks, patios, grills, pools, hot tubs, saunas, recreational fires, and other outdoor recreational facilities.
 - 1. *The applicant indicates guests would have access to the fenced in back yard with green space, perennials, heated in ground swimming pool, and a front porch with gas firepit. All rules would be provided through the booking website.*
 - v. Applicable sections of city ordinances governing noise, parks, parking and pets.
 - 1. *The proposed zoning code will require the applicant to inform their guests of city ordinances. City ordinances pertaining to vehicles, garbage, noise, and pets have been included in section 515-3-34 Short Term Rentals.*
- g. The occupancy of a short term rental shall be limited to not more than 2 people per bedroom.
 - i. *The proposed zoning code allows for a maximum of 3 occupants per bedroom.*
 - ii. *Per Section 425.810, the maximum occupancy per proposed bedroom under the proposed zoning code would be:*
 - 1. *Bedroom 1 – 3 persons*
 - 2. *Bedroom 2 – 2 persons*
 - 3. *Bedroom 3 – 2 persons*
 - 4. *Bedroom 4 – 3 persons*
- h. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the Building Department, whichever is stricter.
 - i. *The rooms used for sleeping have been inspected by the housing inspector for occupancy, egress, and smoke detectors as part of the rental inspection process. The home was inspected for a rental license on 12/21/21 and passed all building and rental code requirements.*
- i. The short term rental shall be connected to city sewer and water.

- i. The house is connected to city sewer and water.*
- j. A short term rental shall have a full bathroom (sink, toilet and tub or shower).
 - i. The house has 3 bathrooms.*
- k. Additional occupancy by use of recreational vehicles, tents, accessory structures or fish houses is not permitted.
 - i. The applicant is not proposing the use of any recreational vehicles, tents, accessory structure, or fish houses for occupancy.*
- l. The permit holder shall provide a physical visual demarcation of the property lines.
 - i. This will not be a requirement in the proposed zoning code. The property's backyard is fully fenced in.*
- m. The permit holder shall keep a report, detailing use of the short term rental by recording the full name, address, phone number and vehicle license number of guests using the rental. A copy of the report shall be provided to the planning department upon request.
- n. A short term rental shall be a licensed rental unit by the City and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to the City of Brainerd's rental housing maintenance code. Each unit shall be inspected annually by the rental housing inspector and the fire marshall.
 - i. The property was licensed as a rental on 12/21/2021 with license number CR2021-01089.*
- o. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety and safety of renters. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.
- p. A permit holder must post their permit number on all print, poster or web advertisements.
- q. A permit holder must apply for and be granted state and local sales tax numbers, including hotel and motel use sales tax.
 - i. The applicant has contacted her CPA to handle the state/ local tax requirements and provide guidance.*
- r. In addition to an interim use permit, short term rentals rented for less than 7 days are considered a hotel and are required to have a Minnesota department of health license.
 - i. The proposed zoning code requires the applicant to contact the Minnesota Department of Health about lodging license requirements.*

As of this writing, no one has contacted the Community Development Department with concerns or objections to the Interim Use Permit.

Staff Opinion

Staff recommends approval of this Interim Use Permit conditional on reinspection by the Building Inspector and Fire Marshall.



City Planning Department

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

Receipt # _____
Check # _____
Date paid: _____

INTERIM USE PERMIT

Application Form (residential - \$250.00 / commercial - \$500.00 + \$500.00 escrow deposit)

(This form must be filled out completely before your application will be accepted)

Property Address for this *Interim Use Permit*: 704 Fir Street Brainerd, MN 56401

I (We) the undersigned, do hereby respectfully request the Brainerd City Council to grant an Interim Use Permit to allow short term rentals (via AirBnB/VRBO)

_____ at the property address listed above until the date of _____

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

Property Owner: Jeffrey & Kelly Woodman

Address: 2431 Cottagewood Dr SW Nisswa, MN 56468
(Street) (City) (State) (Zip)

Contact Information #: 218-851-4425
(Home) (Business)

(Fax)

(E-mail)

Kelly@LakesAreaLiving.com

Applicant: (if different than Property Owner) _____

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

Contact Information #: _____
(Home) (Business)

(Fax)

(E-mail)

Contact Person: (if different than Property Owner) _____

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

Contact Information #: _____
(Home) (Business)

(Fax)

(E-mail)

This Interim Use Permit may be approved if sufficient facts are presented at the Planning Commission and City Council meetings to support a finding that all of the attached criteria for granting an Interim Use Permit have been met.

Obtaining this *Interim Use Permit* does not absolve the applicant from obtaining all other applicable permits, such as Building Permits, MnDOT access permits, etc.

I (We) certify that I (we) have submitted all the required information to apply for an Interim Use Permit and that the information is factual.

Signed by: Kelly M Woodman Date: 2/25/22
(Property Owner)

Kelly M Woodman
(Property Owner-Please print Name)

(Applicant-If different than owner) Date: _____

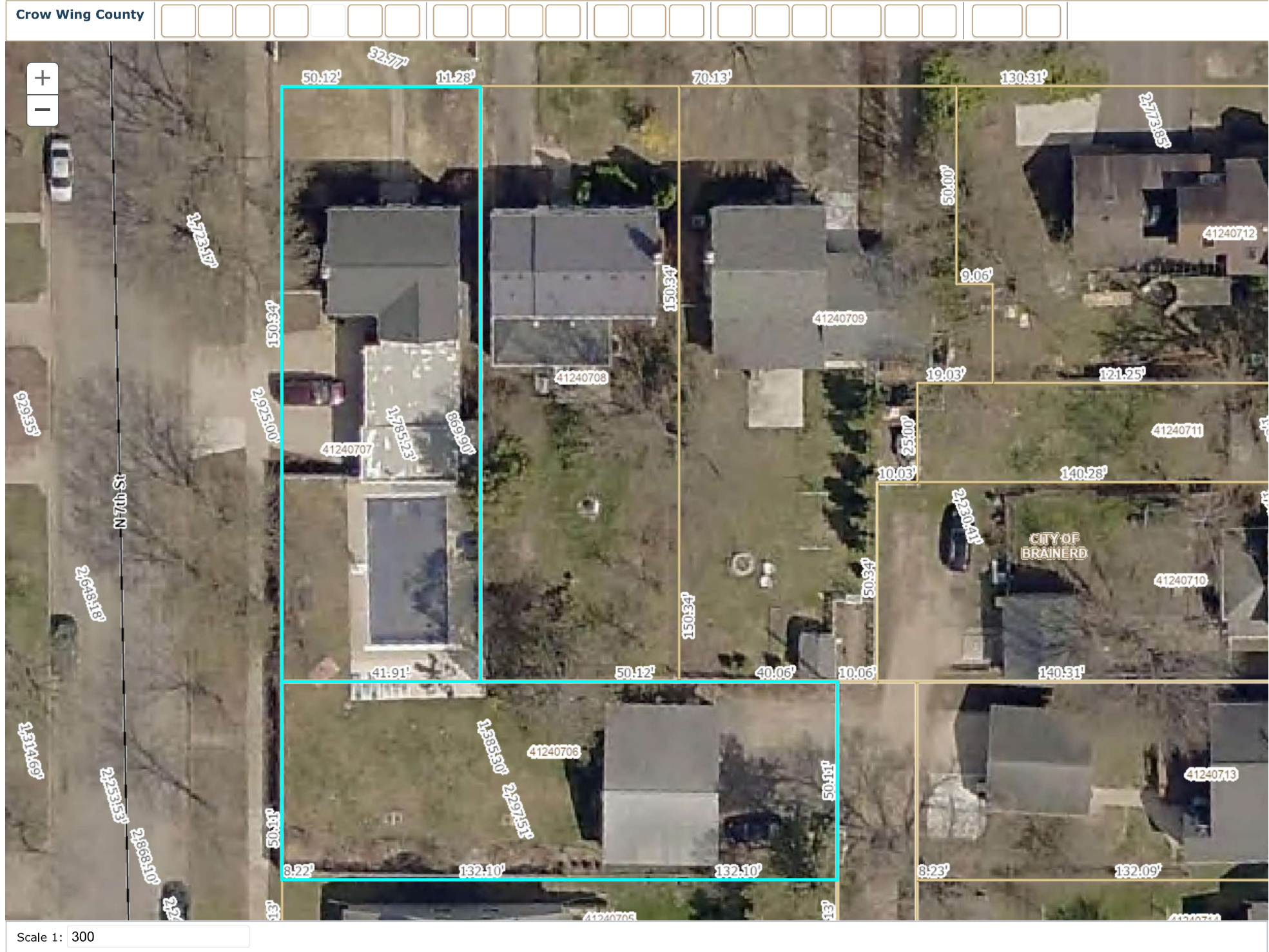
(Applicant - Please print name)

Interim Use Permit Supporting Information

The City Council may approve an Interim Use Permit if all of the "Criteria for Review of Interim Use Permits" are met. In order to facilitate review of this application for an *Interim Use Permit*, the applicant must address each of the "*Criteria*", referred to in Section 515-6-1 of the Zoning Ordinance.

1. **Public Health/Safety/Welfare.** The *Planning Commission* and the *City Council* shall review each application for the purpose of determining that each proposed use meets the following criteria referenced to in Section 6-14 and in addition, shall find adequate evidence that each use in its proposed location will address the following:
 - (a) The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
 - (b) The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.
 - (c) The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.
 - (d) The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
 - (e) The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
 - (f) The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
 - (g) The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.

(con't)



2/25/2022

OWNERS:

Jeffrey and Kelly Woodman

2431 Cottagewood Dr SW Nisswa, MN 56431

Jeff cell: 218-851-7804 / email: woodys1168@gmail.com

Kelly cell: 218-851-4425 / email: kmwoodman18@gmail.com

Legal property address:

712 N 7th Street (PARCEL#41240706)

TOWN OF BRAINERD & FIRST ADDITION TO BRA

LOTS 19 AND 20 BLOCK 198

704 Fir Street (PARCEL#41240707) – MAILING ADDRESS

TOWN OF BRAINERD & FIRST ADDITION TO BRA

LOTS 17 AND 18 BLOCK 198

Zoning:

Market NBHD:

09_NRES - BRAINERD-N RESIDENTIAL

Class:

201 - 1A/4BB(1) RESIDENTIAL SINGLE UNIT

Interim Use Permit application information:

I, Kelly M Woodman; am applying for an interim use application for my property located at 704 Fir Street Brainerd, MN. In December my family and I moved out of the subject property that was used as our primary residence with intentions of renting it out. After several conversations and consideration of the need for an AirB&B type of rental in the city limits of Brainerd, the amenities of my property, the proximity to parks, shopping, dining, the Northern Pacific Center wedding venues, etc. I decided to move forward. Starting in June I would like to allow for nightly rentals (4 night minimum-28 night maximum) to guests. Primarily my clientele / marketing focus would be for wedding guests of bridal parties getting married at the NP center. I will not have any employees, my husband and I and our teenage boys will continue to maintain the property. We will not be serving any food or beverage. Only lodging provided. We are working on getting a website www.northsidenest.com created to take bookings/payment and confirm reservations which would include the necessary permit holder information that we need to convey to guests as outlined in the city ordinance.

Property Details/Parking

- 3000 finished square feet
- 5 sleeping rooms with egress and smoke detectors with 5 beds allowing for 9 total guests
- 3 bathrooms (connected to city sewer/water)
- Fully stocked kitchen/dining/living/wi-fi/theatre room/laundry
- Front porch with gas firepit
- Front yard with perennials and irrigation
- Fenced in back yard with green space, perennials, irrigation, heated in ground swimming pool and access to 3 car detached garage and 36 x 36 parking area
- Front driveway has 3 car parking area for a total of 6 off street parking spaces at the property.

Mail/Deliveries

No mail/deliveries will go to this address as we have forwarded and changed our address to our primary residence.

Trash

We have and will maintain our contract with Waste Partners for weekly pickup of trash removal.

Access

We will have a monitored secure key access at the property that will allow us to track anyone that accesses the property at any time. We have and will continue to do daily drive by checks on the property

Pets

We will have a NO PET policy

Emergency Info

Per our current rental license we have posted our contact information, neighbors contact information, location of fire extinguishers and local emergency medical information in the kitchen area.

Section 6: A-E, Section 11 , 13, 16

All of this information will be added to my website once operational and sent with confirmation when guests book their reservation. We can also have this information posted at the property in whatever format is necessary.

I have contacted my CPA (Chris Clasen) to handle the state/local tax requirements and provide guidance.

NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that Kelly Woodman has submitted a request for an Interim Use Permit to operate a short-term rental at 704 Fir St. The property included in this application is described as:

*LOTS 17 AND 18 BLOCK 198 TOWN OF BRAINERD & FIRST ADDITION TO BRA
P.I.N. 41240707
Section 24, Township 45, Range 31*

The property is zoned R-1 (Single Family Residential District), and Zoning Ordinance Section 515-54-4 (Single Family Residential District) Interim Uses permits the operation of short term rentals provided that they meet the required provisions as listed under 54-4.C. Information on the proposed short-term rental is on file for review at the Community Development Department.

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

Any individual needing special accommodations or would like more information about this request, please call (218) 828-2309.

Dated this 2nd day of March 2022



David C. Chanski, MPA
Community Development Director

Publication Date: March 6th, 2022