

CITY COUNCIL AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Monday, April 4th, 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: 2480 040 2923

Attend by phone **Safety and Public Works Committee 6:45 PM**: 1-844-992-4726 Meeting
Access Code: 2499 290 1049

Attend by phone: **Personnel and Finance Committee 6:45 PM**: 1-844-992-4726 Meeting
Access Code: 2480 318 7125

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

NOTICE TO THE PUBLIC: Council Member Erickson attending SPW and Regular Council
Meeting via WebEx from:
27 Lake Ridge Cir, Keystone, CO 80435

Closed Session 5:30 pm: Per MN Statute 13D.05 subd. 3B Discussion of Pending Litigation and
Receive Advice Regarding Strategy Options for the Firefighters Union Local 4725 and Mark Turn
V. City of Brainerd

1. Pledge Of Allegiance

2. Roll Call

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

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

3. Approval Of Agenda - Voice Vote

4. 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:

040422 COUNCIL AP REGISTER.pdf

B. **Approval Of Minutes**

Documents:

2022-03-21 CC Draft.pdf

C. Approval Of Licenses

Documents:

20220404 Contractor Licenses.pdf

D. Department Activity Reports

Fire Chief

City Engineer/Public Works Director

HR Director

City Administrator

Documents:

FD Report.pdf

City Engineer-PW Director Report.pdf

HR Directors Report Apr 2022 Mtg.pdf

CA Report.pdf

E. Minnesota Lawful Gambling Application For Exempt Permit- Submitted By Minnesota Darkhouse & Angling Association Brainerd Lakes Area For An Event Held On March 26, 2022 At The Brainerd American Legion Post 255, 708 Front St.

F. Minnesota Lawful Gambling Application For Exempt Permit- Submitted By Ducks Unlimited Paul Bunyan Chapter For An Event To Be Held On April 30, 2022 At Brainerd American Legion, 708 Front St.

G. Approve Temporary 3.2 Percent Malt Beverage (Beer) On-Sale License- Submitted By Brainerd Eagles Club #287 For An Event To Be Held On April 23, 2022 At Memorial Park, 1700 Mill Ave, Brainerd- Contingent Upon Inspections

5. Community Member Of The Month

Patrick Spradlin

Documents:

Community Member of the Month.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: 2499 290 1049

Documents:

4-4 SPW Agenda.pdf

1. Approve Event/Parking Lot Closure Application - Lakes Area Music Festival Block Party

Documents:

SPW LAMF Event Application.pdf

2. Approve A Clean-Up Day Event With Lakes Area Skatepark Association

Documents:

SPW Clean-Up Day Event.pdf

3. Reject Bids For Improvement 22-01 - 2022 Seal Coating Project

Documents:

SPW Reject Seal Coat Bids.pdf

4. Approve Cost Share Agreement With Crow Wing County For 2022 Seal Coat Project In Maple Street Parking Lot

Documents:

SPW Cost Share Agreement with CWC for Seal Coating.pdf

5. Approve Plans And Specifications And Authorize Quotes - Improvement 22-02 - 2022 Crack Sealing Project

Documents:

SPW Imp 22-02 Authorize Quotations.pdf

6. Approve Professional Services Agreement With SEH For Improvement 19-02 - West Segment And NP Center Segment Of The Cuyuna Lakes State Trail Construction Services

Documents:

SPW PSA with SEH for Imp 19-02 .pdf

7. Set Public Hearing For Annual Municipal Separate Storm Sewer Annual Report

Documents:

SPW MS4 Notice of Hearing.pdf

8. Resolution - Declaring Sufficiency Of Petition And Setting A Public Hearing On A Vacation Commenced By A Majority Of Abutting Landowners - Alley Blocks M And E, West Brainerd

Documents:

SPW Res - Petition for Alley Vacation and Set PH.pdf

B. Personnel And Finance Committee 6:45 PM

WebEx Teleconference Call-In Information

Call Toll-Free: 1-844-992-4726 Access Code: 2480 318 7125

Documents:

4-4 PF Agenda.pdf

1. Approve Hiring List Firefighter Paid On-Call List 2022 And Authorize To Hire

Documents:

2022 Agenda Request POC hiring.pdf

2. Approve Hiring Of Police Officer Hunter Williams

Documents:

Hunter Williams hiring April 4 2022.pdf

3. Accept The Resignation Of Community Development Director David Chanski

Documents:

Accept the Resignation of CDD Chanski.pdf

4. Authorization To Enter Into Consultant Agreements For Sanitary And Storm Sewer Financial Plans And Rate Design Studies

Documents:

PF Rate Study.pdf

5. Discussion Of The Number Of On-Sale Liquor Licenses Issued To One Person

Documents:

PF On-Sale Liquor Licenses.pdf

6. Discussion Of 2023 Capital Equipment And Facility Budget

Documents:

PF 2023 Captial Budget.pdf

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

Documents:

Update on LAMC.pdf

7. Unfinished Business

- A. Authorize Land Purchase Agreement PID: 41361081 & 41361080

Documents:

MA Land Purchase Agenda Item.pdf

- B. Approve Agreements With Charter Contribution Organizations

Documents:

MA Charter Agreements Item.pdf

- C. Final Reading & Public Hearing - Proposed Ordinance No. 1524 - Amending City Code Section 320: Administrative Citations

Documents:

Final Reading and Public Hearing - Proposed Ordinance No. 1524 - Amending Section 320.pdf

- D. Final Reading & Public Hearing - Proposed Ordinance No. 1525 - Amending City Code Section 425: Rental Housing Maintenance Code

Documents:

Final Reading and Public Hearing - Proposed Ordinance No. 1525 - Amending Section 425.pdf

- E. Final Reading & Public Hearing - Proposed Ordinance No. 1526 - Amending City Code Section 450: Property Maintenance Code

Documents:

Final Reading and Public Hearing - Proposed Ordinance No. 1526 - Amending Section 450.pdf

- F. Final Reading & Public Comment - Proposed Ordinance No. 1527 - Amending City Code Section 515: Zoning Code And The Official Zoning Map

Documents:

Final Reading and Public Comment - Proposed Ordinance No. 1527 - Amending Section 515.pdf

G. Final Reading & Public Hearing- Proposed Ordinance 1528- Replacing Section 1135 Brainerd City Code

Documents:

ORD 1528 Final Reading.pdf

H. Committee Recommendations - Recommended By Council President

Melissa Willis- Tower

I. 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 & Public Hearing- Ordering Improvement, Approving Plans And Specifications, And Ordering Advertisement For Bids -

Improvement 21-10 - Greenwood Street Reconstruction Project

Documents:

*PH and Res - Order Improvement, Approve Plans and Specs,
and Authorize Bidding - Imp 21-10.pdf*

- B. Resolution & Public Hearing - Ordering Improvement, Approving Plans And Specifications, And Ordering Advertisement For Bids - Improvement 21-12 - North Brainerd Reconstruction Project**

Documents:

*PH and Res - Order Improvement, Approve Plans and Specs,
and Authorize Bidding - Imp 21-12.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 To Closed Session Pursuant Minnesota Statute 13D.05 Subd. 3(C)(3) To Consider Counteroffers For The Purchase Of Property At 504 11th Street South, Brainerd, MN 56401

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"*

03/31/2022 01:33 PM

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INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 04/04/2022 - 04/04/2022

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	Jrnlized Post Date
Vendor 3572 - AAA EQUIPMENT:							
87441 70644	AAA EQUIPMENT CENTER EXMARK SERO TURN MOWER REPAIR AND SEFPziemer 230-5200-42220 REPAIR & MAINT	03/21/2022	04/06/2022	827.59	827.59	Open	N 04/06/2022
Total for vendor 3572 - AAA EQUIPMENT:				827.59	827.59		
Vendor 0011 - ACE HARDWARE:							
304541 70573	ACE HARDWARE SWEEPER 111 PANEL FASTENERS 235-3100-42220 REPAIR & MAINT	03/21/2022 pziemer	04/06/2022	3.75	3.75	Open	N 04/06/2022
304579 70584	ACE HARDWARE SQUARE POINT SHOVELS 235-3100-42240 SMALL TOOLS	03/22/2022 pziemer	04/06/2022	53.96	53.96	Open	N 04/06/2022
304480 70592	ACE HARDWARE HOT WATER JETTER DEBRIS SCREEN 235-3100-42220 REPAIR & MAINT	03/17/2022 pziemer	04/06/2022	8.99	8.99	Open	N 04/06/2022
304468 70593	ACE HARDWARE 5 GALLON GAS CAN 235-3100-42220 REPAIR & MAINT	03/16/2022 pziemer	04/06/2022	53.99	53.99	Open	N 04/06/2022
304502 70604	ACE HARDWARE CLEANER/DOOR KICK 211-5500-42220 REPAIR & MAINT	03/18/2022 pziemer	04/06/2022	18.88	18.88	Open	N 04/06/2022
304607 70612	ACE HARDWARE D BATTERIES FOR GRADE LASER 235-3100-42220 REPAIR & MAINT	03/23/2022 pziemer	04/06/2022	18.38	18.38	Open	N 04/06/2022
304629 70617	ACE HARDWARE VAC TRUCK JET NOZZLE HOLDER PAINT ANI 237-3190-42220 REPAIR & MAINT	03/23/2022 pziemer	04/06/2022	26.87	26.87	Open	N 04/06/2022
304632 70618	ACE HARDWARE SWEEPER 118 PANEL FASTENERS 235-3100-42220 REPAIR & MAINT	03/23/2022 pziemer	04/06/2022	1.38	1.38	Open	N 04/06/2022

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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
304511 70630	ACE HARDWARE FASTENERS - SHOP 230-5200-42220	03/18/2022 pziemer	04/06/2022	3.90	3.90	Open	N 04/06/2022
	REPAIR & MAINT			3.90			
304532 70631	ACE HARDWARE WASHERS, HEX NUTS, THREADLOCKER, FAST 230-5200-42220	03/21/2022 pziemer	04/06/2022	16.65	16.65	Open	N 04/06/2022
	REPAIR & MAINT			16.65			
304716 70701	ACE HARDWARE SCREW DRIVERS 235-3100-42240	03/28/2022 pziemer	04/06/2022	28.77	28.77	Open	N 04/06/2022
	SMALL TOOLS			28.77			
304580 70734	ACE HARDWARE TOGGLE BOLT 230-5200-42220	03/22/2022 pziemer	04/06/2022	6.29	6.29	Open	N 04/06/2022
	REPAIR & MAINT			6.29			
304798 70770	ACE HARDWARE SURGE PROTECTOR, SOCKET, FLEX TUBING, 235-3100-42220	03/31/2022 pziemer	04/06/2022	40.46	40.46	Open	N 04/06/2022
	REPAIR & MAINT			40.46			
Total for vendor 0011 - ACE HARDWARE:				282.27	282.27		

Vendor 2902 - ADVANCE AUTO PA:

6574208385540 70677	ADVANCE AUTO PARTS CHAIN PULLER 235-3100-42220	03/24/2022 pziemer	04/06/2022	59.96	59.96	Open	N 04/06/2022
	REPAIR & MAINT			59.96			
6574208085402 70678	ADVANCE AUTO PARTS CHAIN BREAKER 235-3100-42220	03/21/2022 pziemer	04/06/2022	33.71	33.71	Open	N 04/06/2022
	REPAIR & MAINT			33.71			
6574208285490 70679	ADVANCE AUTO PARTS CARBIDE BUR 235-3100-42220	03/23/2022 pziemer	04/06/2022	56.02	56.02	Open	N 04/06/2022
	REPAIR & MAINT			56.02			
Total for vendor 2902 - ADVANCE AUTO PA:				149.69	149.69		

Vendor 0533 - ALLEGRA:

92491 70606	ALLEGRA BPL FOAMBOARD SIGN 211-5503-43430	03/17/2022 pziemer	04/06/2022	75.00	75.00	Open	N 04/06/2022
	MISC - USE OF HOLDEN TRUST			75.00			

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Total for vendor 0533 - ALLEGRA:				75.00	75.00		
Vendor 0039 - AMERIPRIDE LINE:							
253000116923 70596	ARAMARK UNIFORM SERVICES RUGS AND OVERALLS 235-3100-43430	03/17/2022 pziemer	04/06/2022	113.53	113.53	Open	N 04/06/2022
	MISCELLANEOUS			113.53			
253000119834 70628	ARAMARK UNIFORM SERVICES RUGS AND OVERALLS 235-3100-43430	03/24/2022 pziemer	04/06/2022	81.70	81.70	Open	N 04/06/2022
	MISCELLANEOUS			81.70			
Total for vendor 0039 - AMERIPRIDE LINE:				195.23	195.23		
Vendor 2683 - ASCAP:							
100005858266 70735	ASCAP BALANCE OF ANNUAL LICENSE FEE 4/1/22-pziemer 230-5200-43430	03/20/2022 pziemer	04/06/2022	28.75	28.75	Open	N 04/06/2022
	MISCELLANEOUS			28.75			
Total for vendor 2683 - ASCAP:				28.75	28.75		
Vendor 2838 - AXON ENTERPRISE:							
INUS058481 70574	AXON ENTERPRISE, INC. TASERS 225-2120-41113	03/08/2022 pziemer	04/06/2022	583.29	583.29	Open	N 04/06/2022
	UNIFORM ALLOWANCE			583.29			
INUS059981 70685	AXON ENTERPRISE, INC. QTY 3 TASERS 225-2120-41113	03/17/2022 pziemer	04/06/2022	3,660.00	3,660.00	Open	N 04/06/2022
	UNIFORM ALLOWANCE			3,660.00			
Total for vendor 2838 - AXON ENTERPRISE:				4,243.29	4,243.29		
Vendor 0745 - BATTERIES PLUS:							
P50027537 70700	BATTERIES PLUS BATTERIES - RIFLE SIGHTS 225-2120-42210	03/24/2022 pziemer	04/06/2022	52.20	52.20	Open	N 04/06/2022
	OPERATING SUPPLIES			52.20			
Total for vendor 0745 - BATTERIES PLUS:				52.20	52.20		
Vendor 0296 - BRAINERD PUBLIC:							
MAR 22 COBRA 70597	BRAINERD PUBLIC UTILITIES REMIT MARCH 2022 COBRA	03/18/2022 pziemer	04/06/2022	2,575.64	2,575.64	Open	N 04/06/2022

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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
	101-0000-22800	OTHER LIABILITIES		2,575.64			
	Total for vendor 0296 - BRAINERD PUBLIC:			2,575.64	2,575.64		
Vendor 2106 - BSN SPORTS, LLC:							
916084994 -2 70598	BSN SPORTS, LLC	03/09/2022	04/06/2022	260.00	260.00	Open	N 04/06/2022
	FREIGHT ONLY - MMP BASKETBALL SYSTEM	pziemer					
	400-9050-45510	CAPITAL - LAND		260.00			
	Total for vendor 2106 - BSN SPORTS, LLC:			260.00	260.00		
Vendor 0102 - CANON FINANCIAL:							
28309445 70718	CANON FINANCIAL SERVICE	03/22/2022	04/06/2022	80.69	80.69	Open	N 04/06/2022
	4/1/22-4/30/22 FD COPIER LEASE	pziemer					
	225-2220-43331	LEASED PAYMENTS		80.69			
	Total for vendor 0102 - CANON FINANCIAL:			80.69	80.69		
Vendor 0447 - CDW GOVERNMENT, :							
T352941 70579	CDW GOVERNMENT, INC	03/11/2022	04/06/2022	282.26	282.26	Open	N 04/06/2022
	TONER - STREETS	pziemer					
	235-3100-42200	OFFICE SUPPLIES		282.26			
T514181 70580	CDW GOVERNMENT, INC	03/15/2022	04/06/2022	278.80	278.80	Open	N 04/06/2022
	MICROSOFT VISIO 2021 STANDARD	pziemer					
	101-1800-43309	COMPUTER SUPPORT		278.80			
	Total for vendor 0447 - CDW GOVERNMENT, :			561.06	561.06		
Vendor 1333 - CHAMBERLAIN OIL:							
392066-00 70820	CHAMBERLAIN OIL COMPANY	03/30/2022	04/06/2022	1,278.83	1,278.83	Open	N 04/06/2022
	ENGINE OIL, NITRILE GLOVES, OIL	pziemer					
	235-3100-42220	REPAIR & MAINT		1,278.83			
	Total for vendor 1333 - CHAMBERLAIN OIL:			1,278.83	1,278.83		
Vendor 3783 - CONNECT INTERIORS LLC:							
63657 70620	CONNECT INTERIORS LLC	03/19/2022	04/06/2022	1,503.84	1,503.84	Open	N 04/06/2022
	SIT/STAND DESK LIFT BASE	pziemer					
	400-9050-45530	CAPITAL - OTHER		1,503.84			
	Total for vendor 3783 - CONNECT INTERIORS LLC:			1,503.84	1,503.84		

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Vendor 0900 - CUB FOODS BRD:							
TRX 29							
70624	CUB FOODS - BRAINERD	03/24/2022	04/06/2022	13.38	13.38	Open	N
	EMS BAGS SUPPLIES	pziemer					04/06/2022
	225-2220-42210	OPERATING SUPPLIES		13.38			
	Total for vendor 0900 - CUB FOODS BRD:			13.38	13.38		
Vendor 0133 - CWC RECORDER:							
#22-3361							
70594	CWC RECORDER	03/17/2022	04/06/2022	46.00	46.00	Open	N
	DOC# 968248 -NP CENTER TRAIL EASEMENT	pziemer					04/06/2022
	401-1902-43350	LEGAL PUBLICATIONS		46.00			
	Total for vendor 0133 - CWC RECORDER:			46.00	46.00		
Vendor 3438 - D - D BEVERAGE,:							
1554449							
70607	DAHLHEIMER BEVERAGE	03/21/2022	04/06/2022	186.00	186.00	Open	N
	PAPER SUPPLIES - JANITORIAL	pziemer					04/06/2022
	211-5500-42220	REPAIR & MAINT		186.00			
1557225							
70642	DAHLHEIMER BEVERAGE	03/23/2022	04/06/2022	92.40	92.40	Open	N
	CAN LINERS - PARKS	pziemer					04/06/2022
	230-5200-42210	OPERATING SUPPLIES		92.40			
1559430							
70706	DAHLHEIMER BEVERAGE	03/28/2022	04/06/2022	38.15	38.15	Open	N
	EASTER EGG HUNT SUPPLIES	pziemer					04/06/2022
	230-5211-42210	OPERATING SUPPLIES		38.15			
	Total for vendor 3438 - D - D BEVERAGE,:			316.55	316.55		
Vendor 2412 - DAVIS, JOHN:							
3/18/22							
70686	DAVIS, JOHN	03/18/2022	04/06/2022	104.49	104.49	Open	N
	702 FBI LEEDA COURSE REIMBURSEMENT	pziemer					04/06/2022
	225-2120-43330	PROFESSIONAL DEVELOPMENT		104.49			
	Total for vendor 2412 - DAVIS, JOHN:			104.49	104.49		
Vendor 3074 - EXTREME MACHINE:							
2378							
70684	EXTREME MACHINE INC	03/28/2022	04/06/2022	305.00	305.00	Open	N
	VAC TRUCK AUTO-WIND REBUILD	pziemer					04/06/2022
	237-3190-42220	REPAIR & MAINT		305.00			

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2380 70766	EXTREME MACHINE INC VAC TRUCK BUSHING BORE OUT 237-3190-42220	03/30/2022 pziemer	04/06/2022	25.00 25.00	25.00	Open	N 04/06/2022
	REPAIR & MAINT			25.00			
	Total for vendor 3074 - EXTREME MACHINE:			330.00	330.00		
Vendor 1815 - F.I.R.E. CROSSL:							
5483 70585	F.I.R.E. CROSSLAKE LIVE BURN/VENT SIMULATOR TRAINING 225-2220-43330	03/21/2022 pziemer	04/06/2022	2,200.00 2,200.00	2,200.00	Open	N 04/06/2022
	PROFESSIONAL DEVELOPMENT			2,200.00			
	Total for vendor 1815 - F.I.R.E. CROSSL:			2,200.00	2,200.00		
Vendor 0170 - FASTENAL COMPAN:							
MNBAX252670 70614	FASTENAL COMPANY NUTS & BOLTS RE-SUPPLY 235-3100-42220	03/16/2022 pziemer	04/06/2022	383.29 383.29	383.29	Open	N 04/06/2022
	REPAIR & MAINT			383.29			
	Total for vendor 0170 - FASTENAL COMPAN:			383.29	383.29		
Vendor 3402 - FLEETPRIDE:							
97689554 70764	FLEETPRIDE FUEL INJECTOR CLEANER 235-3100-42220	03/30/2022 pziemer	04/06/2022	30.63 30.63	30.63	Open	N 04/06/2022
	REPAIR & MAINT			30.63			
97689343 70765	FLEETPRIDE TRUCK 108 BRAKE CHAMBER & SLACK ADJUST 235-3100-42220	03/30/2022 pziemer	04/06/2022	130.74 130.74	130.74	Open	N 04/06/2022
	REPAIR & MAINT			130.74			
97702425 70769	FLEETPRIDE TRUCK 108 SNAP RING - LESS SALES TAX 235-3100-42220	03/31/2022 pziemer	04/06/2022	3.60 3.60	3.60	Open	N 04/06/2022
	REPAIR & MAINT			3.60			
	Total for vendor 3402 - FLEETPRIDE:			164.97	164.97		
Vendor 0186 - GALLS LLC:							
020608930 70687	GALLS LLC 707 UNIFORM BOOTS 225-2120-41113	03/07/2022 pziemer	04/06/2022	139.99 139.99	139.99	Open	N 04/06/2022
	UNIFORM ALLOWANCE			139.99			
	Total for vendor 0186 - GALLS LLC:			139.99	139.99		

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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
Vendor 0193 - GOODIN COMPANY:							
06611188-01 70680	GOODIN COMPANY COUPLINGS 238-3160-42220	03/24/2022 pziemer	04/06/2022	11.29	11.29	Open	N 04/06/2022
	HOT WATER JETTER MODIFICATION			11.29			
06611188-00 70681	GOODIN COMPANY COUPLINGS 238-3160-42220	03/23/2022 pziemer	04/06/2022	13.51	13.51	Open	N 04/06/2022
	HOT WATER JETTER MODIFICATIONS			13.51			
Total for vendor 0193 - GOODIN COMPANY:				24.80	24.80		
Vendor 3213 - GRAINGER:							
9193033561 70581	GRAINGER MMP - CHANGING STATION RESTROOM 230-5200-42220	01/27/2022 pziemer	04/06/2022	316.39	316.39	Open	N 04/06/2022
	REPAIR & MAINT			316.39			
9874307797 70582	GRAINGER MILLS FIELD - LOCK BOX FOR GATE KEY 230-5200-42220	12/01/2021 pziemer	04/06/2022	102.58	102.58	Open	N 12/31/2021
	REPAIR & MAINT			102.58			
9969706788 70583	GRAINGER GGP - URINAL BRACKET FOR STEEL PARTI 230-5200-42220	12/01/2021 pziemer	04/06/2022	97.50	97.50	Open	N 12/31/2021
	REPAIR & MAINT			97.50			
Total for vendor 3213 - GRAINGER:				516.47	516.47		
Vendor 3202 - INNOVATIVE OFFI:							
IN3716609 70575	INNOVATIVE OFFICE SOLUTIONS LLC TONER AND INDEX DIVIDERS 225-2120-42200	03/18/2022 pziemer	04/06/2022	156.07	156.07	Open	N 04/06/2022
	OFFICE SUPPLIES			156.07			
IN3723296 70621	INNOVATIVE OFFICE SOLUTIONS LLC TONER 225-2120-42200	03/24/2022 pziemer	04/06/2022	145.99	145.99	Open	N 04/06/2022
	OFFICE SUPPLIES			145.99			
Total for vendor 3202 - INNOVATIVE OFFI:				302.06	302.06		
Vendor 3545 - KITCHIGAMI REGI:							
3/7/22 70609	KITCHIGAMI REGIONAL LIBRARY - CC 2/11/22 - 3/7/22 REMIT CC CHARGES 211-0000-20800	03/07/2022 pziemer	04/06/2022	216.00	216.00	Open	N 04/06/2022
	DUE TO OTHER GOVT UNITS			216.00			

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Total for vendor 3545 - KITCHIGAMI REGI:				216.00	216.00		
Vendor 0223 - L & M STEEL:							
035379							
70610	L & M STEEL	03/23/2022	04/06/2022	36.96	36.96	Open	N
	PLATE STEEL FOR VACTOR JET HEAD HOLDE	pziemer					04/06/2022
	237-3190-42220	REPAIR & MAINT		36.96			
Total for vendor 0223 - L & M STEEL:				36.96	36.96		
Vendor 3469 - LAKES AREA MAT:							
20220315 #522							
70709	LAKES AREA MAT SERVICE INC	03/15/2022	04/06/2022	42.56	42.56	Open	N
	CITY HALL FLOOR MATS	pziemer					04/06/2022
	101-1940-43410	RENTAL EXPENSE		42.56			
20220301 #522							
70710	LAKES AREA MAT SERVICE INC	03/01/2022	04/06/2022	42.56	42.56	Open	N
	CITY HALL FLOOR MATS	pziemer					04/06/2022
	101-1940-43410	RENTAL EXPENSE		42.56			
20220329 #522							
70711	LAKES AREA MAT SERVICE INC	03/29/2022	04/06/2022	44.08	44.08	Open	N
	CITY HALL FLOOR MATS	pziemer					04/06/2022
	101-1940-43410	RENTAL EXPENSE		44.08			
20220315 #520							
70712	LAKES AREA MAT SERVICE INC	03/15/2022	04/06/2022	41.44	41.44	Open	N
	POLICE DEPT FLOOR MATS	pziemer					04/06/2022
	225-2120-43300	PROFESSIONAL SERVICES		41.44			
20220301 #520							
70713	LAKES AREA MAT SERVICE INC	03/01/2022	04/06/2022	41.44	41.44	Open	N
	POLICE DEPT FLOOR MATS	pziemer					04/06/2022
	225-2120-43300	PROFESSIONAL SERVICES		41.44			
20220329 #520							
70714	LAKES AREA MAT SERVICE INC	03/29/2022	04/06/2022	42.92	42.92	Open	N
	POLICE DEPT FLOOR MATS	pziemer					04/06/2022
	225-2120-43300	PROFESSIONAL SERVICES		42.92			
Total for vendor 3469 - LAKES AREA MAT:				255.00	255.00		
Vendor 3627 - LAKES AREA WILD:							
3/22/22							
70589	LAKES AREA WILDLIFE CONTROL	03/22/2022	04/06/2022	2,987.00	2,987.00	Open	N
	MARCH 22 ANIMAL CONTROL CONTRACT	pziemer					04/06/2022
	225-2700-43300	PROFESSIONAL SERVICES		2,987.00			
Total for vendor 3627 - LAKES AREA WILD:				2,987.00	2,987.00		

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Vendor 0232 - LMCIT-BERKLEY:							
7131 70775	LEAGUE MN CITIES INS TRUS LMC GL 114168 - LOADER VS VEHICLE 280-9700-43470	03/25/2022 pziemer	04/06/2022	5,000.00	5,000.00	Open	N 04/06/2022
	UNINSURED LOSSES			5,000.00			
	Total for vendor 0232 - LMCIT-BERKLEY:			5,000.00	5,000.00		
Vendor 0237 - LOCATORS - SUPP:							
0298252-IN 70595	LOCATORS - SUPPLIES INC SELF LEVELING GRADE LASER 235-3100-42220	03/17/2022 pziemer	04/06/2022	908.60	908.60	Open	N 04/06/2022
	REPAIR & MAINT			908.60			
	Total for vendor 0237 - LOCATORS - SUPP:			908.60	908.60		
Vendor 4037 - LORIMOR, DIANNA:							
IMP 19-02 70619	LORIMOR, DIANNA TEMPORARY CONSTRUCTION EASEMENT 401-1902-43430	03/23/2022 pziemer	04/06/2022	351.00	351.00	Open	N 04/06/2022
	MISCELLANEOUS			351.00			
	Total for vendor 4037 - LORIMOR, DIANNA:			351.00	351.00		
Vendor 0239 - MACQUEEN EQUIPM:							
P40791 70601	MACQUEEN EQUIPMENT INC VAC TRUCK AUTO-WIND REBUILD 237-3190-42220	03/22/2022 pziemer	04/06/2022	74.90	74.90	Open	N 04/06/2022
	REPAIR & MAINT			74.90			
P40756 70602	MACQUEEN EQUIPMENT INC SWEEPER 111 CONVEYOR REPLACEMENT 235-3100-42220	03/22/2022 pziemer	04/06/2022	1,283.49	1,283.49	Open	N 04/06/2022
	REPAIR & MAINT			1,283.49			
P40830 70627	MACQUEEN EQUIPMENT INC SWEEPER 111 WATER NOZZLES 235-3100-42220	03/24/2022 pziemer	04/06/2022	60.63	60.63	Open	N 04/06/2022
	REPAIR & MAINT			60.63			
P40918 70702	MACQUEEN EQUIPMENT INC VAC TRUCK AUTO-WIND REBUILD 237-3190-42220	03/28/2022 pziemer	04/06/2022	180.38	180.38	Open	N 04/06/2022
	REPAIR & MAINT			180.38			
P40983 70716	MACQUEEN EQUIPMENT INC SWEEPER MAIN AND GUTTER BROOMS 235-3100-42220	03/29/2022 pziemer	04/06/2022	6,103.80	6,103.80	Open	N 04/06/2022
	REPAIR & MAINT			6,103.80			

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P40982 70717	MACQUEEN EQUIPMENT INC VACTOR MAIN JET AND LEADER HOSE 237-3190-42220	03/29/2022 pziemer	04/06/2022	2,920.80 2,920.80	2,920.80	Open	N 04/06/2022
W09884 70737	MACQUEEN EQUIPMENT INC SNOWBLOWER DIAGNOSIS 235-3125-42220	03/29/2022 pziemer	04/06/2022	9,459.77 9,459.77	9,459.77	Open	N 04/06/2022
Total for vendor 0239 - MACQUEEN EQUIPM:				20,083.77	20,083.77		
Vendor 1753 - MARCO:							
INV9765584 70626	MARCO MICROSOFT365 2/16/22-3/15/22 101-1800-43309	03/21/2022 pziemer	04/06/2022	2,304.00 2,304.00	2,304.00	Open	N 04/06/2022
Total for vendor 1753 - MARCO:				2,304.00	2,304.00		
Vendor 0889 - MENARDS - BAXTE:							
71139 70646	MENARDS - BAXTER SPRAY PAINT 230-5200-42220	03/15/2022 pziemer	04/06/2022	13.74 13.74	13.74	Open	N 04/06/2022
71573 70776	MENARDS - BAXTER GREEN BOARDS	03/23/2022 pziemer	04/06/2022	295.65	295.65	Open	N 04/06/2022
Total for vendor 0889 - MENARDS - BAXTE:				309.39	309.39		
Vendor 0147 - MINNESOTA SOFTB:							
7200 70738	MINNESOTA SOFTBALL ADULT LEAGUES - SOFTBALLS 230-5215-42210	03/29/2022 pziemer	04/06/2022	5,490.00 5,490.00	5,490.00	Open	N 04/06/2022
Total for vendor 0147 - MINNESOTA SOFTB:				5,490.00	5,490.00		
Vendor 0926 - MINNESOTA T'S:							
S 44907 70688	MINNESOTA T'S DEPT UNIFORM SHIRTS 225-2120-41113	03/25/2022 pziemer	04/06/2022	910.91 910.91	910.91	Open	N 04/06/2022
Total for vendor 0926 - MINNESOTA T'S:				910.91	910.91		

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Vendor 3524 - MN STATE FIRE C:							
4110							
70611	MN STATE FIRE CHIEFS ASSOCIATION	03/23/2022	04/06/2022	100.00	100.00	Open	N
	KITCHEN FIRE SAFETY TRAILER PUBLIC E	pziemer					04/06/2022
	225-2220-43430	MISCELLANEOUS		100.00			
	Total for vendor 3524 - MN STATE FIRE C:			100.00	100.00		
Vendor 3887 - MN STATE PATROL COM. VEH SECTION:							
2022 - STREETS							
70707	STATE OF MINNESOTA	03/29/2022	04/06/2022	26.00	26.00	Open	N
	QTY 13 STREET DEPT DECALS	pziemer					04/06/2022
	235-3100-42220	REPAIR & MAINT		26.00			
	Total for vendor 3887 - MN STATE PATROL COM. VEH SECTION:			26.00	26.00		
Vendor 1021 - MOTOROLA:							
8281342265							
70650	MOTOROLA	03/12/2022	04/06/2022	36,102.50	36,102.50	Open	N
	APX 4000 7/800 MHZ MODEL 2 PORT QTY 1	pziemer					04/06/2022
	400-9050-45500	CAPITAL OUTLAY		20,630.00			
	400-9050-45500	CAPITAL OUTLAY		15,472.50			
	Total for vendor 1021 - MOTOROLA:			36,102.50	36,102.50		
Vendor 3168 - MOTORS-N-MORE:							
29036							
70622	MOTORS-N-MORE	03/22/2022	04/06/2022	23.00	23.00	Open	N
	SQD 429 OIL CHANGE	pziemer					04/06/2022
	225-2120-42221	SQUAD CAR REPAIR SUPPLIES		23.00			
29046							
70689	MOTORS-N-MORE	03/28/2022	04/06/2022	23.00	23.00	Open	N
	SQD 432 OIL CHANGE	pziemer					04/06/2022
	225-2120-42221	SQUAD CAR REPAIR SUPPLIES		23.00			
29048							
70771	MOTORS-N-MORE	03/30/2022	04/06/2022	623.99	623.99	Open	N
	SQD 430 - OIL CHANGE & BRAKE PADS	pziemer					04/06/2022
	225-2120-42221	SQUAD CAR REPAIR SUPPLIES		623.99			
	Total for vendor 3168 - MOTORS-N-MORE:			669.99	669.99		
Vendor 3509 - MUTT MITT:							
472060							
70643	MUTT MITT	03/21/2022	04/06/2022	2,686.03	2,686.03	Open	N
	MUTT MITTS FOR PARKS	pziemer					04/06/2022
	230-5200-42220	REPAIR & MAINT		2,686.03			

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Total for vendor 3509 - MUTT MITT:				2,686.03	2,686.03		
Vendor 3580 - NAGELL APPRAISA:							
30207 70591	NAGELL APPRAISAL & CONSULTING IMP 21-10 PROF SVCS 401-9030-43300-21:10	03/15/2022 pziemer	04/06/2022	500.00	500.00	Open	N 04/06/2022
	PROFESSIONAL SERVICES			500.00			
Total for vendor 3580 - NAGELL APPRAISA:				500.00	500.00		
Vendor 0273 - NAPA AUTO PARTS:							
491326 70586	NAPA AUTO PARTS DIESEL COOLANT 225-2220-42210	03/18/2022 pziemer	04/06/2022	101.79	101.79	Open	N 04/06/2022
	OPERATING SUPPLIES			101.79			
Total for vendor 0273 - NAPA AUTO PARTS:				101.79	101.79		
Vendor 0736 - NORTHLAND FIRE:							
48558 70682	NORTHLAND FIRE PROTECTION PD EXTINGUISHER SERVICE 225-2120-42209	03/18/2022 pziemer	04/06/2022	53.10	53.10	Open	N 04/06/2022
	SAFETY EQUIPMENT SUPPLIES			53.10			
Total for vendor 0736 - NORTHLAND FIRE:				53.10	53.10		
Vendor 0284 - OFFICE SHOP:							
1109483-0 70605	OFFICE SHOP COLOR COPY PAPER 211-5500-42200	03/17/2022 pziemer	04/06/2022	31.96	31.96	Open	N 04/06/2022
	OFFICE SUPPLIES			31.96			
1109799-0 70708	OFFICE SHOP CLEANER, WIPES 203-9000-42200	03/25/2022 pziemer	04/06/2022	41.02	41.02	Open	N 04/06/2022
	OFFICE SUPPLIES			41.02			
1109926-0 70767	OFFICE SHOP COPY PAPER - CITY HALL 101-1940-42200	03/29/2022 pziemer	04/06/2022	299.28	299.28	Open	N 04/06/2022
	OFFICE SUPPLIES			299.28			
Total for vendor 0284 - OFFICE SHOP:				372.26	372.26		
Vendor 2137 - O'REILLY AUTOMO:							
1647-108382 70623	O'REILLY AUTOMOTIVE STORES INC. SQD 430 WIPER BLADES	03/22/2022 pziemer	04/06/2022	30.98	30.98	Open	N 04/06/2022

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	225-2120-42221	SQUAD CAR REPAIR SUPPLIES		30.98			
	Total for vendor 2137 - O'REILLY AUTOMO:			30.98	30.98		
Vendor 0561 - PEOPLES SECURIT:							
230766 70603	PEOPLES SECURITY ANNUAL ALARM MONITORING - LIBRARY 211-5500-42220	03/01/2022 pziemer REPAIR & MAINT	04/06/2022	263.88 263.88	263.88	Open	N 04/06/2022
	Total for vendor 0561 - PEOPLES SECURIT:			263.88	263.88		
Vendor 3260 - PERSONIUS, JAY:							
3/22/22 70690	PERSONIUS, JAY 715 MIELAGE - EVOC & PIT TRAINING REL 225-2120-43330	03/22/2022 pziemer PROFESSIONAL DEVELOPMENT	04/06/2022	76.05 76.05	76.05	Open	N 04/06/2022
	Total for vendor 3260 - PERSONIUS, JAY:			76.05	76.05		
Vendor 0521 - PITNEY BOWES IN:							
3105428187 70715	PITNEY BOWES INC POSTAGE MACHINE LEASE 1/30/22 - 4/29/ 101-1940-43331	03/26/2022 pziemer LEASE PAYMENTS	04/06/2022	398.82 398.82	398.82	Open	N 04/06/2022
	Total for vendor 0521 - PITNEY BOWES IN:			398.82	398.82		
Vendor 3413 - RATWIK, ROSZAK:							
FEB 2022 70736	RATWIK, ROSZAK AND MALONEY FEB 2022 RETAINER/SPECIAL SERVICES 101-1610-43301 101-0000-14100 101-0000-14100 101-1610-43301 401-1919-43300 101-0000-14100	03/01/2022 pziemer CITY ATTORNEY DUE FROM COMPONENT UNIT DUE FROM COMPONENT UNIT CITY ATTORNEY PROFESSIONAL SERVICES DUE FROM COMPONENT UNIT	04/06/2022	6,181.22 3,984.86 372.00 220.10 271.25 1,216.76 116.25	6,181.22	Open	N 04/06/2022
	Total for vendor 3413 - RATWIK, ROSZAK:			6,181.22	6,181.22		
Vendor 3076 - RUFFRIDGE JOHNS:							
IA21877 70599	RUFFRIDGE JOHNSON EQUIPMENT CO INC FIELD RAKES 230-5200-42221	03/17/2022 pziemer R&M-ATHLETIC FIELD MAINT	04/06/2022	228.91 228.91	228.91	Open	N 04/06/2022
	Total for vendor 3076 - RUFFRIDGE JOHNS:			228.91	228.91		

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Vendor 3612 - SEVERSON PORTER:							
3/22/22 70588	SEVERSON PORTER LAW MARCH 2022 PROSECUTION AGREEMENT 225-2127-43310	03/22/2022 pziemer	04/06/2022	16,517.09	16,517.09	Open	N 04/06/2022
	MISDEMEANOR PROSECUTOR			16,517.09			
	Total for vendor 3612 - SEVERSON PORTER:			16,517.09	16,517.09		
Vendor 0314 - SHANNON'S AUTO:							
36301 70691	SHANNON'S AUTO BODY SQD 432 AUTO BODY REPAIR 225-2120-42221	03/18/2022 pziemer	04/06/2022	3,049.87	3,049.87	Open	N 04/06/2022
	SQUAD CAR REPAIR SUPPLIES			3,049.87			
	Total for vendor 0314 - SHANNON'S AUTO:			3,049.87	3,049.87		
Vendor 0317 - SHORT ELLIOTT :							
422809 70600	SHORT ELLIOTT HENDRICKSON IMP 20-07 THRU 2/26/22 401-9030-43300-20:07	03/15/2022 pziemer	04/06/2022	5,010.00	5,010.00	Open	N 04/06/2022
	PROFESSIONAL SERVICES			5,010.00			
422612 70613	SHORT ELLIOTT HENDRICKSON IMP 19-02 THRU 2/28/22 401-1902-43300	03/15/2022 pziemer	04/06/2022	26,187.03	26,187.03	Open	N 04/06/2022
	PROFESSIONAL SERVICES			26,187.03			
	Total for vendor 0317 - SHORT ELLIOTT :			31,197.03	31,197.03		
Vendor 3138 - ST. LOUIS MRO I:							
54355 70645	ST. LOUIS MRO INC. PRE-EMPLOYMENT CHECK - B. BOSER 101-1400-43300	03/01/2022 pziemer	04/06/2022	24.50	24.50	Open	N 04/06/2022
	PROFESSIONAL SERVICES			24.50			
	Total for vendor 3138 - ST. LOUIS MRO I:			24.50	24.50		
Vendor 2589 - STAPLES ADVANTA:							
3502007378 70576	STAPLES ADVANTAGE TONER CARTRIDGE 225-2120-42200	03/05/2022 pziemer	04/06/2022	163.47	163.47	Open	N 04/06/2022
	OFFICE SUPPLIES			163.47			
3502477866 70587	STAPLES ADVANTAGE FOLDERS/LABELS 225-2220-42200	03/12/2022 pziemer	04/06/2022	40.69	40.69	Open	N 04/06/2022
	OFFICE SUPPLIES			40.69			
	Total for vendor 2589 - STAPLES ADVANTA:			204.16	204.16		

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Vendor 2930 - STOPSTICK, LTD:							
0024195-IN 70772	STOPSTICK, LTD	03/25/2022	04/06/2022	44.00	44.00	Open	N
	STOPSTICK REPLACEMENT HANDLE (433)	pziemer					04/06/2022
	225-2120-42210	OPERATING SUPPLIES		44.00			
	Total for vendor 2930 - STOPSTICK, LTD:			44.00	44.00		
Vendor 0322 - STREICHERS PROF:							
I1556867 70577	STREICHERS PROF EQUIP	03/14/2022	04/06/2022	47.99	47.99	Open	N
	701 - UNIFORM DUTY BELT	pziemer					04/06/2022
	225-2120-41113	UNIFORM ALLOWANCE		47.99			
I1557025 70578	STREICHERS PROF EQUIP	03/15/2022	04/06/2022	168.98	168.98	Open	N
	717 UNIFORM BOOTS	pziemer					04/06/2022
	225-2120-41113	UNIFORM ALLOWANCE		168.98			
I1558000 70692	STREICHERS PROF EQUIP	03/21/2022	04/06/2022	56.98	56.98	Open	N
	771 - CSO UNIFORM SHIRT	pziemer					04/06/2022
	225-2121-41113	UNIFORM ALLOWANCE		56.98			
I1558368 70693	STREICHERS PROF EQUIP	03/22/2022	04/06/2022	922.85	922.85	Open	N
	726HW - INITIAL ISSUE	pziemer					04/06/2022
	225-2120-41113	UNIFORM ALLOWANCE		922.85			
I1558382 70694	STREICHERS PROF EQUIP	03/22/2022	04/06/2022	306.98	306.98	Open	N
	726HW - INITIAL ISSUE	pziemer					04/06/2022
	225-2120-41113	UNIFORM ALLOWANCE		306.98			
I1558515 70695	STREICHERS PROF EQUIP	03/01/2022	04/06/2022	2,652.00	2,652.00	Open	N
	727DS & 720TG - BODY ARMOR	pziemer					04/06/2022
	225-2120-41113	UNIFORM ALLOWANCE		2,652.00			
I1558817 70696	STREICHERS PROF EQUIP	03/24/2022	04/06/2022	23.98	23.98	Open	N
	726HW - INITIAL ISSUE	pziemer					04/06/2022
	225-2120-41113	UNIFORM ALLOWANCE		23.98			
I1558826 70697	STREICHERS PROF EQUIP	03/24/2022	04/06/2022	99.99	99.99	Open	N
	724SK - INITIAL ISSUE	pziemer					04/06/2022
	225-2120-41113	UNIFORM ALLOWANCE		99.99			

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I1558928 70698	STREICHERS PROF EQUIP 726HW - INITIAL ISSUE 225-2120-41113	03/24/2022 pziemer	04/06/2022	724.94	724.94	Open	N 04/06/2022
	UNIFORM ALLOWANCE			724.94			
	Total for vendor 0322 - STREICHERS PROF:			5,004.69	5,004.69		

Vendor 3601 - THOMAS ALLEN HO:

00039918 70615	THOMAS ALLEN HOMES LLC 9345 VIKING - BD PAYMENT REFUND 405-0000-20200	03/24/2022 pziemer	04/06/2022	500.00	500.00	Open	N 04/06/2022
	Park Dedication Fee			500.00			
00039884 70616	THOMAS ALLEN HOMES LLC 15220 BOOM -BD PAYMENT REFUND 405-0000-20200	03/24/2022 pziemer	04/06/2022	500.00	500.00	Open	N 04/06/2022
	Park Dedication Fee			500.00			
	Total for vendor 3601 - THOMAS ALLEN HO:			1,000.00	1,000.00		

Vendor 2924 - VERIZON WIRELES:

9901926955 70625	VERIZON WIRELESS 2/16-3/15 FD IPADS 225-2220-43321	03/15/2022 pziemer	04/06/2022	245.07	245.07	Open	N 04/06/2022
	TELEPHONE			245.07			
9902521310/PKS 70773	VERIZON WIRELESS 2/24-3/23 PARKS DEPT PHONES 230-5200-43321	03/23/2022 pziemer	04/06/2022	86.23	86.23	Open	N 04/06/2022
	TELEPHONE			86.23			
9902521310/HR 70774	VERIZON WIRELESS 2/24-3/23 HR CELL PHONE 101-1400-43321	03/23/2022 pziemer	04/06/2022	46.22	46.22	Open	N 04/06/2022
	TELEPHONE			46.22			
	Total for vendor 2924 - VERIZON WIRELES:			377.52	377.52		

Vendor 0087 - VISIT BRAINERD:

FEB 2022 70590	VISIT BRAINERD FEB 2022 LODGING TAX REMIT 101-9200-43340	03/22/2022 pziemer	04/06/2022	2,174.99	2,174.99	Open	N 04/06/2022
	LODGING TAX REMIT/PR			2,174.99			
	Total for vendor 0087 - VISIT BRAINERD:			2,174.99	2,174.99		

Vendor 0344 - WASTE PARTNERS:

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22X00724 70608	WASTE PARTNERS INC FEB 22 LIBRARY WASTE REMOVAL 211-5500-43380	03/01/2022 pziemer	04/06/2022	169.56 169.56	169.56	Open	N 04/06/2022
	UTILITIES			169.56			
	Total for vendor 0344 - WASTE PARTNERS:			169.56	169.56		
Vendor 2097 - WATCHGUARD VIDE:							
ACCINV0035546 70699	WATCHGUARD VIDEO BODY MIC CLIPS 225-2120-41113	03/22/2022 pziemer	04/06/2022	55.50 55.50	55.50	Open	N 04/06/2022
	UNIFORM ALLOWANCE			55.50			
	Total for vendor 2097 - WATCHGUARD VIDE:			55.50	55.50		
Vendor 0346 - WIDSETH SMITH N:							
216325 70683	WIDSETH SMITH NOLTING STREET & SEWER REMODEL/ADDITION 400-2001-43300	03/23/2022 pziemer	04/06/2022	2,543.00 2,543.00	2,543.00	Open	N 04/06/2022
	PROFESSIONAL SERVICES			2,543.00			
216337 70768	WIDSETH SMITH NOLTING BRD PD STORAGE BUILDING 401-9030-43300	03/23/2022 pziemer	04/06/2022	2,437.50 2,437.50	2,437.50	Open	N 04/06/2022
	PROFESSIONAL SERVICES			2,437.50			
	Total for vendor 0346 - WIDSETH SMITH N:			4,980.50	4,980.50		
Vendor 1712 - WSB:							
R-018999-000-6 70647	WSB & ASSOCIATES MISSISSIPPI LANDING TRAILHEAD 401-9030-45530-21:16	03/25/2022 pziemer	04/06/2022	25,484.25 25,484.25	25,484.25	Open	N 04/06/2022
	CAPITAL-PYMTS TO CONTRACTS			25,484.25			
R-019813-000-1 70648	WSB & ASSOCIATES EAST RIVER ROAD GEOTECHNICAL EXPLORA 401-9030-45530-22:07	03/24/2022 pziemer	04/06/2022	987.00 987.00	987.00	Open	N 04/06/2022
	CAPITAL-PYMTS TO CONTRACTS			987.00			
	Total for vendor 1712 - WSB:			26,471.25	26,471.25		
Vendor 0354 - ZIEGLER, INC:							
IN000466093 70572	ZIEGLER, INC LOADER 114 OIL FILTER 235-3100-42220	03/19/2022 pziemer	04/06/2022	48.06 48.06	48.06	Open	N 04/06/2022
	REPAIR & MAINT			48.06			

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SI000151775 70629	ZIEGLER, INC SNOWBLOWER ELECTRONIC TROUBLE SHOOTING 235-3125-42220	03/25/2022 pziemer	04/06/2022	221.02 221.02	221.02	Open	N 04/06/2022
Total for vendor 0354 - ZIEGLER, INC:				269.08	269.08		

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Vendor 3698 - AMAZON:

3/2/22 70636	AMAZON AWS WEB SERVICE FEB 2022 101-1800-43309	03/02/2022 pziemer	04/06/2022	191.03 191.03	191.03	Open	N 04/06/2022
Total for vendor 3698 - AMAZON:				191.03	191.03		

Vendor 0110 - BRAINERD LAKES:

3/22/22 70638	BRAINERD LAKES AREA CHAMBERS OF COM J. BERGMAN - EGGS & ISSUES 2022 101-1400-43330	03/22/2022 pziemer	04/06/2022	25.00 25.00	25.00	Open	N 04/06/2022
Total for vendor 0110 - BRAINERD LAKES:				25.00	25.00		

Vendor MISC - BUILDER'S BOOKS INC:

3/1/22 70649	BUILDER'S BOOKS INC BOOKS - IPMC 2021 - COM DEV 101-2400-43435	03/01/2022 pziemer	04/06/2022	169.32 169.32	169.32	Open	N 04/06/2022
Total for vendor MISC - BUILDER'S BOOKS INC:				169.32	169.32		

Vendor 3925 - HAMPTON BY HILTON:

3/3/22 70635	HAMPTON BY HILTON BERGMAN - EHLERS CONFERENCE -STAY 101-1400-43330	03/03/2022 pziemer	04/06/2022	107.07 107.07	107.07	Open	N 04/06/2022
Total for vendor 3925 - HAMPTON BY HILTON:				107.07	107.07		

Vendor 0519 - MN GFOA:

2/28/22 70633	MN GFOA HILLMAN MEMBERSHIP RENEWAL 101-1400-43433	03/01/2022 pziemer	04/06/2022	70.00 70.00	70.00	Open	N 04/06/2022
Total for vendor 0519 - MN GFOA:				70.00	70.00		

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Inv Ref#	Description	Entered By					Post Date
	GL Distribution						

PCard: 2257 U.S. BANK Card Holder: CITY HALL

Vendor 3710 - SRFAX:

3/18/22

70637

SRFAX

SR FAX SERVICE 3/18/22-3/17/23

101-1800-43321

03/18/2022

pziemer

TELEPHONE

Total for vendor 3710 - SRFAX:

04/06/2022

95.40

95.40

Open

N

04/06/2022

95.40

95.40

95.40

Vendor 3858 - ZOOM VIDEO COMMUNICATIONS:

3/18/22

70632

ZOOM VIDEO COMMUNICATIONS

ZOOM 3/18/22 - 4/17/22

101-1800-43309

COMPUTER SUPPORT

Total for vendor 3858 - ZOOM VIDEO COMMUNICATIONS:

03/18/2022

pziemer

04/06/2022

29.98

29.98

Open

N

04/06/2022

29.98

29.98

29.98

Total PCard: 2257 U.S. BANK Card Holder: CITY HALL

687.80

687.80

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

PCard: 2257 U.S. BANK Card Holder: FIRE

Vendor 3698 - AMAZON:

3/16/22

70675

AMAZON
RUBBERMAID WOOD HANDLE
225-2220-42210

03/16/2022

pziemer

OPERATING SUPPLIES

04/06/2022

24.52

24.52

Open

N

04/06/2022

24.52

3/16/22 - 2

70676

AMAZON
SCREEN PROTECTOR/SQUEEGEE
225-2220-42200
225-2220-42210

03/16/2022

pziemer

OFFICE SUPPLIES

OPERATING SUPPLIES

04/06/2022

60.83

60.83

Open

N

04/06/2022

14.89

45.94

Total for vendor 3698 - AMAZON:

85.35

85.35

Total PCard: 2257 U.S. BANK Card Holder: FIRE

85.35

85.35

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PCard: 2257 U.S. BANK Card Holder: LIBRARY

Vendor 3698 - AMAZON:

3/8/22 - 2 70721	AMAZON BOOK TAPE 211-5500-42240	03/08/2022 pziemer LIBRARY MATERIALS	04/06/2022	108.00 108.00	108.00	Open	N 04/06/2022
3/10/22 70722	AMAZON CREDIT - RETURN HEADSET 211-5500-42200	03/10/2022 pziemer OFFICE SUPPLIES	04/06/2022	(26.99) (26.99)	(26.99)	Open	N 04/06/2022
3/10/22 - 2 70724	AMAZON SCOTCH BLUE TAPE 211-5503-43430	03/10/2022 pziemer MISC - USE OF HOLDEN TRUST	04/06/2022	9.13 9.13	9.13	Open	N 04/06/2022
3/15/22 70726	AMAZON ARTS AND CRAFTS SUPPLIES 211-5503-43430	03/15/2022 pziemer MISC - USE OF HOLDEN TRUST	04/06/2022	27.43 27.43	27.43	Open	N 04/06/2022
3/15/22 - 2 70727	AMAZON CONSTRUCTION PAPER 211-5503-43430	03/15/2022 pziemer MISC - USE OF HOLDEN TRUST	04/06/2022	59.69 59.69	59.69	Open	N 04/06/2022
03-17-22 70728	AMAZON TRIPOD/STICKERS 211-5503-43430	03/17/2022 pziemer MISC - USE OF HOLDEN TRUST	04/06/2022	25.88 25.88	25.88	Open	N 04/06/2022
3/17/22 - 2 70729	AMAZON PLASTIC SEWING NEEDLES 211-5503-43430	03/17/2022 pziemer MISC - USE OF HOLDEN TRUST	04/06/2022	3.99 3.99	3.99	Open	N 04/06/2022
3/8/22 - 3 70731	AMAZON PENCIL SHARPENER/HARD DRIVE 211-5503-43430	03/08/2022 pziemer MISC - USE OF HOLDEN TRUST	04/06/2022	53.86 53.86	53.86	Open	N 04/06/2022
3/10/22 - 3 70732	AMAZON YELLOW/PURPLE TAPE 211-5503-43430	03/10/2022 pziemer MISC - USE OF HOLDEN TRUST	04/06/2022	17.98 17.98	17.98	Open	N 04/06/2022
3/10/22 - 4 70733	AMAZON HARD DRIVE/USB CABLE	03/10/2022 pziemer	04/06/2022	81.77	81.77	Open	N 04/06/2022

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PCard: 2257 U.S. BANK Card Holder: LIBRARY							
	211-5500-42200	OFFICE SUPPLIES		81.77			
		Total for vendor 3698 - AMAZON:		360.74	360.74		
Vendor 2504 - JANWAY COMPANY:							
3/21/22							
70730	JANWAY COMPANY USA	03/21/2022	04/06/2022	211.94	211.94	Open	N
	MAGNET PAPER	pziemer					04/06/2022
	211-5503-43430	MISC - USE OF HOLDEN TRUST		211.94			
		Total for vendor 2504 - JANWAY COMPANY:		211.94	211.94		
Vendor MISC - MAILCHIMP:							
3/4/22							
70720	MAILCHIMP	03/04/2022	04/06/2022	34.00	34.00	Open	N
	LIBRARY MAIL CHIMP SERVICE	pziemer					04/06/2022
	211-5503-43430	MISC - USE OF HOLDEN TRUST		34.00			
		Total for vendor MISC - MAILCHIMP:		34.00	34.00		
Vendor 4042 - OVERNIGHT PRINTS:							
3/15/22							
70725	OVERNIGHT PRINTS	03/15/2022	04/06/2022	275.57	275.57	Open	N
	BROCHURE PRINTING	pziemer					04/06/2022
	211-5503-43430	MISC - USE OF HOLDEN TRUST		275.57			
		Total for vendor 4042 - OVERNIGHT PRINTS:		275.57	275.57		
Vendor 3697 - USPS:							
3/10/22 - 2							
70723	USPS	03/10/2022	04/06/2022	46.80	46.80	Open	N
	POSTAGE	pziemer					04/06/2022
	211-5500-43322	POSTAGE		46.80			
		Total for vendor 3697 - USPS:		46.80	46.80		
Total PCard: 2257 U.S. BANK Card Holder: LIBRARY				929.05	929.05		

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PCard: 2257 U.S. BANK Card Holder: PARKS

Vendor 4040 - BERNARD J. MULCAHY COMPANY:

3/22/22 70704	BERNARD J. MULCAHY COMPANY CREDIT FOR SALES TAX ON PREVIOUS PURC 230-5200-42220	03/22/2022 pziemer	04/06/2022	(90.03) (90.03)	(90.03)	Open	N 04/06/2022
3/17/22 70719	BERNARD J. MULCAHY COMPANY MMP RETENTION POND REPLACEMENT PUMP 230-5200-42220	03/17/2022 pziemer	04/06/2022	1,233.03 1,233.03	1,233.03	Open	N 04/06/2022
Total for vendor 4040 - BERNARD J. MULCAHY COMPANY:				1,143.00	1,143.00		

Vendor MISC - CROWD MANAGERS:

3/21/22 70703	CROWD MANAGERS CROWD MANAGER TRAINING - K. KAUFMAN 230-5200-43330	03/21/2022 pziemer	04/06/2022	19.95 19.95	19.95	Open	N 04/06/2022
Total for vendor MISC - CROWD MANAGERS:				19.95	19.95		

Vendor 4041 - TCS:

3/17/22 70705	TENNIS COURT SUPPLY MMP - PICKLEBALL NET SYSTEMS QTY 5 400-9050-45510	03/17/2022 pziemer	04/06/2022	1,875.00 1,875.00	1,875.00	Open	N 04/06/2022
Total for vendor 4041 - TCS:				1,875.00	1,875.00		

Total PCard: 2257 U.S. BANK Card Holder: PARKS

3,037.95	3,037.95
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PCard: 2257 U.S. BANK Card Holder: POLICE

Vendor 3698 - AMAZON:

3/3/22 70652	AMAZON FLASHDRIVES 225-2120-42210	03/03/2022 pziemer	04/06/2022	119.99	119.99	Open	N 04/06/2022
	OPERATING SUPPLIES			119.99			
3/8/22 70660	AMAZON MAGNETIC LABLES 225-2120-42200	03/08/2022 pziemer	04/06/2022	30.86	30.86	Open	N 04/06/2022
	OFFICE SUPPLIES			30.86			
	Total for vendor 3698 - AMAZON:			150.85	150.85		

Vendor 2838 - AXON ENTERPRISE:

3/21/22 70669	AXON ENTERPRISE, INC. TASER TRAINING CARTRIDGES 225-2120-43330	03/21/2022 pziemer	04/06/2022	1,607.50	1,607.50	Open	N 04/06/2022
	PROFESSIONAL DEVELOPMENT			1,607.50			
	Total for vendor 2838 - AXON ENTERPRISE:			1,607.50	1,607.50		

Vendor 3701 - BCA CJTE UNIT:

3/4/22 70655	BCA CJTE UNIT 702 - BUDGETING AND STAFFING 225-2120-43330	03/04/2022 pziemer	04/06/2022	250.00	250.00	Open	N 04/06/2022
	PROFESSIONAL DEVELOPMENT			250.00			
3/4/22 - 2 70656	BCA CJTE UNIT 707 TEAM DYNAMICS AND DECISION MAKING 225-2120-43330	03/04/2022 pziemer	04/06/2022	250.00	250.00	Open	N 04/06/2022
	PROFESSIONAL DEVELOPMENT			250.00			
3/15/22 70663	BCA CJTE UNIT 721 DEATH & MISSING PERSON INVESTIGATION 225-2120-43330	03/15/2022 pziemer	04/06/2022	300.00	300.00	Open	N 04/06/2022
	PROFESSIONAL DEVELOPMENT			300.00			
3/18/22 70667	BCA CJTE UNIT 712 DEATH & MISSING PERSON INVESTIGATION 225-2120-43300	03/18/2022 pziemer	04/06/2022	300.00	300.00	Open	N 04/06/2022
	PROFESSIONAL SERVICES			300.00			
	Total for vendor 3701 - BCA CJTE UNIT:			1,100.00	1,100.00		

Vendor 2989 - HOME DEPOT:

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PCard: 2257 U.S. BANK Card Holder: POLICE

3/7/22

70659

HOME DEPOT
VACUUM FILTERS
225-2120-42220

03/07/2022

pziemer

04/06/2022

29.97

29.97

Open

N
04/06/2022

REPAIR & MAINT

29.97

Total for vendor 2989 - HOME DEPOT:

29.97

29.97

Vendor 3956 - JOHN E. REID & ASSOCIATES:

3/9/22

70661

JOHN E. REID & ASSOCIATES
728 - PRE-EMPLOYMENT INTERVIEWING
225-2120-43330

03/09/2022

pziemer

04/06/2022

129.00

129.00

Open

N
04/06/2022

PROFESSIONAL DEVELOPMENT

129.00

Total for vendor 3956 - JOHN E. REID & ASSOCIATES:

129.00

129.00

Vendor 4038 - LAW ENFORCEMENT SEMINARS:

3/16/22

70665

LAW ENFORCEMENT SEMINARS
728TR - INTERNAL AFFAIRS INVESTIGATION
225-2120-43300

03/16/2022

pziemer

04/06/2022

385.00

385.00

Open

N
04/06/2022

PROFESSIONAL SERVICES

385.00

Total for vendor 4038 - LAW ENFORCEMENT SEMINARS:

385.00

385.00

Vendor 4039 - MARRIOTT:

3/13/22

70668

SPRINGHILL SUITES
702 - FBI LEEDA TRAINING
225-2120-43330

03/13/2022

pziemer

04/06/2022

470.52

470.52

Open

N
04/06/2022

PROFESSIONAL DEVELOPMENT

470.52

Total for vendor 4039 - MARRIOTT:

470.52

470.52

Vendor 0418 - MN POLICE CHIEF:

3/4/22

70657

MN CHIEF'S OF POLICE ASSO
200 PERMIT TO ACQUIRE CARDS
225-2120-42210

03/04/2022

pziemer

04/06/2022

114.00

114.00

Open

N
04/06/2022

OPERATING SUPPLIES

114.00

Total for vendor 0418 - MN POLICE CHIEF:

114.00

114.00

Vendor 0664 - MN POST BOARD:

3/22/22

70670

MN POST BOARD
701, 703, 707, 717, 718, 708 POST LI
225-2120-43433

03/22/2022

pziemer

04/06/2022

540.00

540.00

Open

N
04/06/2022

DUES & SUBSCRIPTIONS

540.00

Total for vendor 0664 - MN POST BOARD:

540.00

540.00

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User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

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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
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PCard: 2257 U.S. BANK Card Holder: POLICE

Vendor 3911 - STORM TRAINING GROUP:

2/23/22

70673

STORM TRAINING GROUP

03/01/2022

04/06/2022

(418.95)

(418.95)

Open

N

724 - REFUND - GROUND CONTROL TACTICS

pziemer

04/06/2022

225-2120-43330

PROFESSIONAL DEVELOPMENT

(418.95)

Total for vendor 3911 - STORM TRAINING GROUP:

(418.95)

(418.95)

Vendor 3703 - TRANSUNION RISK:

3/01/22

70654

TRANSUNION RISK

03/01/2022

04/06/2022

75.00

75.00

Open

N

INVESTIGATIONS & PARKING TKT COLLECT

pziemer

04/06/2022

225-2120-42210

OPERATING SUPPLIES

75.00

Total for vendor 3703 - TRANSUNION RISK:

75.00

75.00

Vendor 3697 - USPS:

2/25/22

70651

USPS

03/01/2022

04/06/2022

4.50

4.50

Open

N

POSTAGE

pziemer

04/06/2022

225-2120-43322

POSTAGE

4.50

3/3/22

70653

USPS

03/03/2022

04/06/2022

18.85

18.85

Open

N

POSTAGE

pziemer

04/06/2022

225-2120-43322

POSTAGE

18.85

3/4/22

70658

USPS

03/04/2022

04/06/2022

5.10

5.10

Open

N

POSTAGE

pziemer

04/06/2022

225-2120-43322

POSTAGE

5.10

3/10/22

70662

USPS

03/10/2022

04/06/2022

9.60

9.60

Open

N

POSTAGE

pziemer

04/06/2022

225-2120-43322

POSTAGE

9.60

3/15/22

70664

USPS

03/15/2022

04/06/2022

0.20

0.20

Open

N

POSTAGE

pziemer

04/06/2022

225-2120-43322

POSTAGE

0.20

3/16/22

70666

USPS

03/16/2022

04/06/2022

9.65

9.65

Open

N

POSTAGE

pziemer

04/06/2022

225-2120-43322

POSTAGE

9.65

03/31/2022 01:33 PM

User: pziemer

DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

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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
PCard: 2257 U.S. BANK Card Holder: POLICE							
3/22/22 70671	USPS POSTAGE 225-2120-43322	03/22/2022 pziemer	04/06/2022	1.36	1.36	Open	N 04/06/2022
	POSTAGE			1.36			
3/22/22 - 2 70672	USPS POSTAGE 225-2120-43322	03/22/2022 pziemer	04/06/2022	15.30	15.30	Open	N 04/06/2022
	POSTAGE			15.30			
3/17/22 70674	USPS POSTAGE 225-2120-43322	03/17/2022 pziemer	04/06/2022	4.50	4.50	Open	N 04/06/2022
	POSTAGE			4.50			
	Total for vendor 3697 - USPS:			69.06	69.06		
Total PCard: 2257 U.S. BANK Card Holder: POLICE				4,251.95	4,251.95		

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User: pziemer

DB: Brainerd

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
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PCard: 2257 U.S. BANK Card Holder: STREETS

Vendor MISC - BRAINERD TOOLS AND MORE:

2/28/22

70634	BRAINERD TOOLS AND MORE	03/01/2022	04/06/2022	80.00	80.00	Open	N
	FRONT PLOW JACK	pziemer					04/06/2022
	235-3125-42220	REPAIR & MAINT		80.00			
	Total for vendor MISC - BRAINERD TOOLS AND MORE:			80.00	80.00		

Vendor 3719 - FLEET FARM:

3/9/22

70639	FLEET FARM	03/09/2022	04/06/2022	287.88	287.88	Open	N
	WATERPROOF BOOTS	pziemer					04/06/2022
	238-3160-42220	REPAIR & MAINT		287.88			

3/16/22

70640*	FLEET FARM	03/16/2022	04/06/2022	55.03	55.03	Open	N
	RETURN & PURCHASE BOOTS	pziemer					04/06/2022
	238-3160-42220	REPAIR & MAINT		(95.96)			
	238-3160-42220	REPAIR & MAINT		150.99			
	Total for vendor 3719 - FLEET FARM:			342.91	342.91		

Vendor 0267 - MN POLLUTION CO:

3/10/22

70641	MN POLLUTION CONTROL AGENCY	03/10/2022	04/06/2022	204.98	204.98	Open	N
	WASTEWATER CONF, REG, - G, THOMPSON	pziemer					04/06/2022
	237-3190-43330	PROFESSIONAL DEVELOPMENT		204.98			
	Total for vendor 0267 - MN POLLUTION CO:			204.98	204.98		

Total PCard: 2257 U.S. BANK Card Holder: STREETS

# of Invoices:	178	# Due:	178	Totals:	204,995.94	204,995.94
# of Credit Memos:	3	# Due:	3	Totals:	(535.97)	(535.97)
Net of Invoices and Credit Memos:					204,459.97	204,459.97

* 1 Net Invoices have Credits Totalling: (95.96)

--- TOTALS BY GL DISTRIBUTION ---

101-0000-14100	DUE FROM COMPONENT UNIT	708.35
101-0000-22800	OTHER LIABILITIES	2,575.64
101-1400-43300	PROFESSIONAL SERVICES	24.50
101-1400-43321	TELEPHONE	46.22
101-1400-43330	PROFESSIONAL DEVELOPMENT	132.07
101-1400-43433	DUES & SUBSCRIPTIONS	70.00
101-1610-43301	CITY ATTORNEY	4,256.11

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

EXP CHECK RUN DATES 04/04/2022 - 04/04/2022

BOTH JOURNALIZED AND UNJOURNALIZED

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Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnalized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
101-1800-43309	COMPUTER SUPPORT			2,803.81			
101-1800-43321	TELEPHONE			95.40			
101-1940-42200	OFFICE SUPPLIES			299.28			
101-1940-43331	LEASE PAYMENTS			398.82			
101-1940-43410	RENTAL EXPENSE			129.20			
101-2400-43435	BOOKS & PAMPHLETS			169.32			
101-9200-43340	LODGING TAX REMIT/PR			2,174.99			
203-9000-42200	OFFICE SUPPLIES			41.02			
211-0000-20800	DUE TO OTHER GOVT UNITS			216.00			
211-5500-42200	OFFICE SUPPLIES			86.74			
211-5500-42220	REPAIR & MAINT			468.76			
211-5500-42240	LIBRARY MATERIALS			108.00			
211-5500-43322	POSTAGE			46.80			
211-5500-43380	UTILITIES			169.56			
211-5503-43430	MISC - USE OF HOLDEN TRUST			794.47			
225-2120-41113	UNIFORM ALLOWANCE			10,297.40			
225-2120-42200	OFFICE SUPPLIES			496.39			
225-2120-42209	SAFETY EQUIPMENT SUPPLIES			53.10			
225-2120-42210	OPERATING SUPPLIES			405.19			
225-2120-42220	REPAIR & MAINT			29.97			
225-2120-42221	SQUAD CAR REPAIR SUPPLIES			3,750.84			
225-2120-43300	PROFESSIONAL SERVICES			810.80			
225-2120-43322	POSTAGE			69.06			
225-2120-43330	PROFESSIONAL DEVELOPMENT			2,768.61			
225-2120-43433	DUES & SUBSCRIPTIONS			540.00			
225-2121-41113	UNIFORM ALLOWANCE			56.98			
225-2127-43310	MISDEMEANOR PROSECUTOR			16,517.09			
225-2220-42200	OFFICE SUPPLIES			55.58			
225-2220-42210	OPERATING SUPPLIES			185.63			
225-2220-43321	TELEPHONE			245.07			
225-2220-43330	PROFESSIONAL DEVELOPMENT			2,200.00			
225-2220-43331	LEASED PAYMENTS			80.69			
225-2220-43430	MISCELLANEOUS			100.00			
225-2700-43300	PROFESSIONAL SERVICES			2,987.00			
230-5200-42210	OPERATING SUPPLIES			92.40			
230-5200-42220	REPAIR & MAINT			5,213.67			
230-5200-42221	R&M-ATHLETIC FIELD MAINT			228.91			
230-5200-43321	TELEPHONE			86.23			
230-5200-43330	PROFESSIONAL DEVELOPMENT			19.95			
230-5200-43430	MISCELLANEOUS			28.75			
230-5211-42210	OPERATING SUPPLIES			38.15			
230-5215-42210	OPERATING SUPPLIES			5,490.00			
235-3100-42200	OFFICE SUPPLIES			282.26			
235-3100-42220	REPAIR & MAINT			10,534.31			
235-3100-42240	SMALL TOOLS			82.73			
235-3100-43430	MISCELLANEOUS			195.23			
235-3125-42220	REPAIR & MAINT			9,760.79			
237-3190-42220	REPAIR & MAINT			3,569.91			
237-3190-43330	PROFESSIONAL DEVELOPMENT			204.98			
238-3160-42220	REPAIR & MAINT			367.71			
280-9700-43470	UNINSURED LOSSES			5,000.00			
400-2001-43300	PROFESSIONAL SERVICES			2,543.00			
400-9050-45500	CAPITAL OUTLAY			36,102.50			
400-9050-45510	CAPITAL - LAND			2,135.00			
400-9050-45530	CAPITAL - OTHER			1,503.84			
401-1902-43300	PROFESSIONAL SERVICES			26,187.03			
401-1902-43350	LEGAL PUBLICATIONS			46.00			

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DB: Brainerd

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Inv Num	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnalized
Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
	401-1902-43430	MISCELLANEOUS		351.00			
	401-1919-43300	PROFESSIONAL SERVICES		1,216.76			
	401-9030-43300	PROFESSIONAL SERVICES		2,437.50			
	401-9030-43300-20:07	PROFESSIONAL SERVICES		5,010.00			
	401-9030-43300-21:10	PROFESSIONAL SERVICES		500.00			
	401-9030-45530-21:16	CAPITAL-PYMTS TO CONTRACTS		25,484.25			
	401-9030-45530-22:07	CAPITAL-PYMTS TO CONTRACTS		987.00			
	405-0000-20200	Park Dedication Fee		1,000.00			

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DB: Brainerd

INVOICE REGISTER REPORT FOR CITY OF BRAINERD

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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
--- TOTALS BY FUND ---							
	101 - GENERAL FUND			13,883.71	13,883.71		
	203 - TRANSIT FUND			41.02	41.02		
	211 - LIBRARY FUND			1,890.33	1,890.33		
	225 - PUBLIC SAFETY FUND			41,649.40	41,649.40		
	230 - PARK & RECREATION FUND			11,198.06	11,198.06		
	235 - STREET & SEWER FUND			20,855.32	20,855.32		
	237 - SANITARY SEWER FUND			3,774.89	3,774.89		
	238 - STORM SEWER FUND			367.71	367.71		
	280 - PACKAGE INSURANCE FUND			5,000.00	5,000.00		
	400 - CAPITAL PROJECTS FUND			42,284.34	42,284.34		
	401 - CONSTRUCTION FUND			62,219.54	62,219.54		
	405 - PARK DEDICATION CAPITAL			1,000.00	1,000.00		
--- TOTALS BY DEPT/ACTIVITY ---							
	0000 -			4,499.99	4,499.99		
	1400 - ADMINISTRATION			272.79	272.79		
	1610 - LEGAL-CIVIL ATTORNEY			4,256.11	4,256.11		
	1800 - IT/GIS			2,899.21	2,899.21		
	1902 - 19:02 CLST CONNECTION			26,584.03	26,584.03		
	1919 - 19:19 NW 3RD&JACKSON STRE			1,216.76	1,216.76		
	1940 - CITY HALL			827.30	827.30		
	2001 - STREET REMODEL/ADDITION			2,543.00	2,543.00		
	2120 - POLICE DEPARTMENT			19,221.36	19,221.36		
	2121 - COMMUNITY SERVICE			56.98	56.98		
	2127 - MISDEMEANOR PROSECUTOR			16,517.09	16,517.09		
	2220 - FIRE DEPARTMENT			2,866.97	2,866.97		
	2400 - COMMUNITY DEVL/INSPECTION			169.32	169.32		
	2700 - ANIMAL CONTROL			2,987.00	2,987.00		
	3100 - S & S MAINTENANCE			11,094.53	11,094.53		
	3125 - SNOW REMOVAL			9,760.79	9,760.79		
	3160 - STORM SEWER EXPENSE			367.71	367.71		
	3190 - SANITARY SEWER EXPENSE			3,774.89	3,774.89		
	5200 - PARK MAIN/ADMINISTRATION			5,669.91	5,669.91		
	5211 - SPECIAL EVENTS PROGRAM			38.15	38.15		
	5215 - ADULT SOFTBALL			5,490.00	5,490.00		
	5500 - LIBRARY-BUDGETED			879.86	879.86		
	5503 - HOLDEN TRUST DONATION USE			794.47	794.47		
	9000 - TRANSIT FUND			41.02	41.02		
	9030 - CONSTRUCTION PROJ-MISC			34,418.75	34,418.75		
	9050 - CAPITAL PROJECTS-MISC			39,741.34	39,741.34		
	9200 - CITY-WIDE			2,174.99	2,174.99		
	9700 - PACKAGE INSURANCE			5,000.00	5,000.00		

**Brainerd, MN
March 21st, 2022**

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, Stunek, Johnson, Pritschet, and Bevans. Mayor Badeaux was also noted as present.

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

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

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON TO APPROVE THE CONSENT CALENDAR.

- A. **Approval of Bills- Approved**
- B. **Approval of Minutes of the Regular City Council Meeting held on March 7th, 2022- Approved**
- C. **Approval of Licenses- Approved**
- D. **Department Activity Reports- Approved**

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

Council Committee Reports

Safety and Public Works

Resolution- Approving Joint Powers Agreement for Lakes Area Drug Investigative Division and Authorize Signatures - Approved

Committee Chair O'Day stated that the agreement would allow the City of Brainerd, City of Baxter, and Crow Wing County law enforcement agencies to work together on drug related issues.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET TO APPROVE THE JOINT POWERS AGREEMENT WITH THE ENTITIES INVOLVED FOR THE LAKES AREA DRUG INVESTIGATIVE DIVISION AND AUTHORIZE SIGNATURES ON THE DOCUMENTS.

RESOLUTION 09:22

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

Approve 2022 Bridge Inspection Request for Proposals- Approved

Committee Chair O'Day stated that this is a bi-annual inspection.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON, DULY CARRIED, TO APPROVE REQUEST FOR PROPOSALS FOR BRIDGE SAFETY INSPECTION SERVICES, WITH A PROPOSED DUE DATE OF APRIL 22, 2022.

Approve Construction Cost Share Agreement for Pavement Marking with Crow Wing County- Approved

Committee Chair O'Day stated that 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 done, it 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.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET, DULY CARRIED, TO APPROVE OF THE ATTACHED COST SHARE AGREEMENT WITH CROW WING COUNTY FOR ROADWAY PAVEMENT MARKINGS.

Approve Contract Towing Specifications and Authorize Bidding of Services- Approved

Committee Chair O'Day stated that the current towing agreement left questions interdepartmentally. The changes to the specifications will hopefully clear those up. Opening date of the bids is April 22, 2022, at 10:00 a.m.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON, DULY CARRIED, TO APPROVE OF THE ATTACHED SPECIFICATIONS AND AUTHORIZE BIDDING FOR THESE SERVICES AS PRESENTED.

Approve Plans and Specifications and Authorize Bidding- East River Road Improvements- Approved

Committee Chair O'Day stated that this is the portion of East River Road that will be next to the Mississippi River Trailhead Park (MLT) to improve parking at the future park. This is a streets project, not a parks project.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET, DULY CARRIED, TO APPROVE THE PLANS AND SPECIFICATIONS AS PRESENTED AND AUTHORIZING BIDDING THE EAST RIVER ROAD IMPROVEMENTS CONCURRENTLY WITH THE MLT PARK PROJECT.

Approve Plans and Specifications and Authorize Bidding for 2022 Sanitary Sewer Collection System- Approved

Committee Chair O'Day stated this project came about from the smoke testing and manhole study 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.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON DULY CARRIED, TO APPROVE THE ATTACHED PLANS AND SPECIFICATIONS AND AUTHORIZE BIDDING.

Approve Request for Proposals for Harrison Elementary-Oak Street Safe Routes to School Project- Approved

Committee Chair O'Day stated that the design and construction engineering services are not eligible grant costs. The project is beyond the City's annual street reconstruction plans for capital improvement, therefore, the staffing needed to deliver this project is not available from a City Staff perspective.

Member Johnson thanked City Engineer/ Public Works Director Sandy for his department's work on the grant application as the kids in his neighborhood will be a lot safer while crossing Oak Street to get to school.

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

Resolution- Detour Agreement with the Minnesota Department of Transportation for the South 6th Street Reconstruction- Approved

Committee Chair O'Day stated that the detour for the South 6th Street (TH 371B) will use Willow Street.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON TO ADOPT THE ATTACHED RESOLUTION ENTERING INTO THE DETOUR AGREEMENT WITH MNDOT AND ALLOWS PROPER SIGNATURE AND AMENDMENTS THERETO ON THE AGREEMENT.

RESOLUTION 10:22

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

Consideration of Bids and Award of Contract for the NP Center Segment of the Cuyuna Lakes State Trail Project- Approved

Committee Chair O'Day stated that the lowest bid came in 15% over the engineers estimate at \$375,706. Increased cost bids will be expected for all projects this year due to supply chain issues and increased costs for fuel and materials.

City Engineer/Public Works Director Sandy stated that the City was awarded \$1.1 million in grant funding from the Minnesota Department of Natural Resources to construct the trail through the City. Reimbursable cost for this segment of the trail is \$127,000 through the grant. The remaining local cost is \$248,000.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET, DULY CARRIED, TO AWARD OF THE NP CENTER SEGMENT OF THE CUYUNA LAKES STATE TRAIL PROJECT TO KNIFE RIVER.

Personnel and Finance Committee

Approval of Memoranda of Agreement (MOA) for 2021 IUOE Central Pension Fund Effective Date - Approved

Committee Chair Johnson stated this MOA clarifies/matches when the change of the employee's pension contribution was updated in 2021 as part of both 2021-2022 IUOE union contracts.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, APPROVE THE ATTACHED MOA 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.

Consider Proposals for Charter Contribution Organizations

Attorney Langel clarified the language in the Charter which- states that the levied dollars go to "an" entity so the dollars are for a single organization. However, the City Council can determine whether or not to award the dollars.

An Arboretum or Greenspace- Sent to Commission

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO SEND TO THE CHARTER COMMISSION TO CLARIFY THE LANGUAGE CHANGE INSTITUTED THAT SAID THERE SHALL BE A GREENSPACE OR ARBORETUM WITHIN THE CITY LIMITS.

A Community Action Organization- Approved

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO ENTER INTO A 5-YEAR AGREEMENT WITH BRAINERD COMMUNITY ACTION FOR 1.5% OF THE PREVIOUS YEARS LEVY OF EACH YEAR.

A Senior Citizen Organization- Approved

Committee Chair Johnson stated that he would be voting against the motion due to the membership of The Center being regional. He supports the programs that the Center provides, however, it should be to the level of membership for all members from within the city limits. He would be in favor of funding The Center up to the membership of all senior citizens who reside in the city limits of Brainerd.

Council President Bevans stated he is not a member of The Center, but he does benefit from the programs provided.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND STENGLEIN, TO ENTER INTO A 5-YEAR AGREEMENT WITH THE CENTER FOR 1.5% OF THE PREVIOUS YEARS LEVY OF EACH YEAR.

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

Discussion of Implementing the Street Lighting Policy- Approved

Committee Chair Johnson stated that many of the high traffic streets have been updated in the last ten years with updated conduit and would only need the new lights and poles placed.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO IMPLEMENT THE STREET LIGHTING POLICY WHEN RECONSTRUCTING THE STREETS IN ADDITION TO GOING BACK TO STREETS THAT HAVE UPDATED CONDUIT IN THE LAST TEN YEARS; FURTHER TO UPDATE HIGH TRAFFIC STREETS LIGHTING AS SOON AS POSSIBLE.

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- Establishing the Parking Commission as a Standing Committee- Approved

Community Development Director Chanski stated that the Parking Commission recommendations included the establishment of the commission as a standing committee.

MOVED AND SECONDED BY COUNCIL MEMBERS STENGLEIN AND O'DAY TO ADOPT A RESOLUTION ESTABLISHING THE PARKING COMMISSION AS A STANDING COMMITTEE.

RESOLUTION 11:22

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

Chair Bevans recommended Kevin Yeager (expire 2026), Wayne Erickson (expire 2024), Rylie Weber (expire 2026), Brenda Billman-Arndt (expire 2025) , and Chuck Marohn (expire 2023) to the Parking Commission to expire December 31st of said year.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND STUNEK, DULY CARRIED, TO APPROVE COUNCIL PRESIDENT BEVANS RECOMMENDATIONS FOR THE PARKING COMMISSION.

Member Johnson stated that he received a phone call regarding parking in the downtown area and where the enhanced parking restrictions apply. He tasked the Parking Commission with determining this at their first meeting as a standing committee.

Mayor Badeaux also requested the commission take a look at the possibility of on-street leased parking.

Resolution- Reestablishing Precincts and Polling Places- Approved

Member Johnson asked that for this election cycle Ward 4 keep St. Andrew's as the only polling place with the hope that Harrison can be used in future years.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND PRITSCHET, DULY CARRIED, TO USE ONLY ST. ANDREW'S FOR WARD 4 VOTING THIS ELECTION.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND PRITSCHET TO ADOPT RESOLUTION REESTABLISHING THE PRECINCTS AND POLLING PLACES USING ONLY ST.ANDREW'S FOR WARD 4.

RESOLUTION 12:22

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

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

MOVED AND SECONDED BY COUNCIL MEMBERS PRITSCHET AND O'DAY, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE 1524- AMENDING CITY CODE SECTION 320: ADMINISTRATIVE CITATIONS AND DISPENSE WITH THE ACTUAL READING.

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

Community Development Director Chanski stated that this is a repeal and replace of Section 425: Rental Housing of which the language was brought before Council in January of 2022.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND ERICKSON, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE 1525- AMENDING CITY CODE SECTION 425: RENTAL HOUSING MAINTENANCE CODE AND DISPENSE WITH THE ACTUAL READING.

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

Community Development Director Chanski stated that this is a repeal and replace of Section 450: Property Maintenance with the International Property Maintenance Code (IPMC).

MOVED AND SECONDED BY COUNCIL MEMBERS PRITSCHET AND ERICKSON, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE 1526- AMENDING CITY CODE SECTION 450: PROPERTY MAINTENANCE AND DISPENSE WITH THE ACTUAL READING.

First Reading- Proposed Ordinance No. 1527- Amending City Code Section 515: Zoning Code and Official Zoning Map- Approved

Community Development Director Chanski stated it is believed that the new Zoning Code is a better representation of the City today and will be a great tool for looking into the future. He stated that the Public Hearing took place at the Planning Commission on Wednesday, March 16th. He introduced Jennifer Haskamp, the consultant who has been working on the improvements.

Jennifer Haskamp, Swanson Haskamp Consulting, 246 S Albert St, St. Paul, stated that the Zoning Code update has been in process the last 16 months. She gave a brief overview of the new Zoning Code and Zoning Map.

Member Johnson asked about section 1541 allowed uses: warming shelters- stating that initially when the Council approved the Interim Use Permit for Bridges of Hope that there would be discussion with the businesses and neighbors in the neighborhood after the permit expired.

Community Development Director Chanski stated that warming shelters are still listed as an interim use in the table of uses. The current warming house's permit does expire in June.

Ms. Haskamp stated that Warming Shelters as an interim use is listed in the table of uses but not in 515-3-41 Warming Shelter section as a point of preference. She will include "interim use" in the final reading.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND STUNEK, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE 1527- AMENDING

CITY CODE SECTION 515: ZONING CODE AND OFFICIAL ZONING MAP AND DISPENSE WITH THE ACTUAL READING.

First Reading- Proposed Ordinance No. 1528- An Ordinance Replacing Section 1135 of the Brainerd City Code- Approved

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND PRITSCHET, DULY CARRIED, TO HOLD THE FIRST READING OF PROPOSED ORDINANCE 1528- REPLACING SECTION 1135 OF THE BRAINERD CITY CODE, DISPENSE WITH THE ACTUAL READING AND SET THE PUBLIC HEARING FOR APRIL 4TH, 2022 AT 7:30 PM .

Consideration of Interim Use Permit (IUP) for Commercial Greenhouse to Support the Operation of Yesterday's Gone Bar and Grill- Approved

Community Development Director Chanski stated that the Planning Commission met on Wednesday, March 16th to discuss the IUP for a Commercial Greenhouse. The Commission recommends that Council approve the interim use permit contingent on the zoning code update. This is contingent due to the fact that the City's current code does not allow for the materials proposed for this project.

Member Johnson stated that being that the Zoning Code passage is inevitable, that allowing the owner of Yesterday's Gone to start construction prior to the approval seems less restrictive.

City Attorney Langel stated that approving the permit without being contingent on the passage of the new Zoning Code would put the owner in violation of the Zoning Code.

Members Bevans, Stunek, Erickson, and Pritschet stated they would be voting no due to the need for the contingency on the passage of the code.

MOVED AND SECONDED BY COUNCIL MEMBER JOHNSON AND O'DAY TO ALLOW THE OWNER OF YESTERDAY'S GONE BAR AND GRILL TO CONSTRUCT A GREENHOUSE WITH THE ROLLED MATERIALS WITHOUT ANY CONTINGENCIES.

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

Member Stunek stated that he will be voting no due to approving the permit before the zoning code may set the City up for a problem.

Chair Bevans stated that he will be voting no due to the proposed material use of the greenhouse.

MOVED AND SECONDED BY MEMBERS ERICKSON AND STENGLEIN TO ACCEPT THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE AN INTERIM USE PERMIT FOR A COMMERCIAL GREENHOUSE TO SUPPORT THE OPERATIONS OF YESTERDAY'S GONE AT PID 4121525 CONTINGENT UPON THE PASSAGE OF THE NEW ZONING CODE.

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

Consideration of the Interim Use Permit (IUP) for Short-Term Rental at 704 Fir St.- Approved

Community Development Director Chanski stated that the Planning Commission met on Wednesday, March 16th to discuss the IUP for the Short-Term Rental at 704 Fir Street. The commission recommends that Council approves the IUP contingent upon inspection by the Building Inspector and Fire Marshal, operations must comply with the most current version of zoning code, and in the event of a lapse in rental licensing the applicant will be given notice to comply.

MOVED AND SECONDED BY COUNCIL MEMBER ERICKSON AND PRITSCHET, DULY CARRIED, TO ACCEPT THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE AN INTERIM USE PERMIT FOR SHORT-TERM RENTAL AT 704 FIR STREET WITH CONTINGENCIES.

Public Forum

The Chair opened public forum at 8:52 p.m.

Jerry Stirewalt, N 9th St, stated that he has had a lot of issues with his landlord for issues that have not been handled by the City or addressed in City Code. He requested that tenants have a place to complain against their landlords if there is retaliation and issues not being addressed.

Kevin Yeager, 325 Bluff Ave, stated that he called Brainerd Public Utilities about the banners in downtown needing to be removed much sooner because they start to look ragged with a negative response. He thanked the Public Works department for removing the banners the very next day after calling City Hall. He is disappointed at Brainerd Public Utilities reaction and unwillingness to help with the request considering the fact that they are not an autonomous entity within the City. He is requesting that a policy be considered to allow other Departments within the City access to used equipment when needed.

Mike Murphy, 8371 Greenwood Rd, Baxter, stated that current zoning codes are restrictive of landowners.

The Chair closed public forum at 9:09 p.m.

Staff Reports

Attorney Langel stated that Ordinance 1523 regarding the amendment to the City Charter was published on January 30th, 2022, meaning it will not be enacted until May 1st, 2022. It would be appropriate for Council to make modifications to the personnel policy and City Code provisions that are not consistent with the amendments to the Charter.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND O'DAY, DULY CARRIED, TO DIRECT STAFF TO MAKE MODIFICATIONS TO THE PERSONNEL POLICY AND CITY CODE PROVISIONS THAT ARE NOT CONSISTENT WITH THE AMENDMENTS TO THE CHARTER.

Community Development Director Chanski stated that the first improvements to East River Road for the Mississippi Landing Trailhead Park are underway. The Mississippi River is now visible.

Administrator Bergman stated that she and the Mayor presented to Lakes Area Unlimited Learning for a session "Brainerd Then and Now". City Engineer/ Public Works Director Sandy joined her on Community Focus to talk about road construction. Visit Brainerd presented at Lunch and Learn to share activities in Brainerd, a record number of staff attended. Finally, she and the Mayor attended the Committee of the Whole meeting where Country Manor presented to the committee requesting tax abatement. It was a work session, so no action was taken. County Staff was directed to research the subject further.

Mayors Report

Mayor Badeaux stated that the tree removal at the Mississippi is starting to look fantastic at the Trailhead Park. The Mayor requests that the City Council hear the request from the team for the naming of the park. Park Board meeting was on March 22nd at 4:00 p.m. The Highway 210 Business Owner Aesthetic Workshop will take place on March 29th, at 6:00 p.m. in the City Council Chambers.

Council Member Reports

Member Stunek as the liaison to The Center thanked the Council for funding the Center through Charter contributions.

Member Johnson stated that the Jaycee's Park master planning took place, he attended to contribute. He attended the St. Patrick's Day festivities and thanked all involved who made it a great day, his son won 2nd place in the costume contest. Finally, he was surprised that there is not a public hearing taking place at Council on the Zoning Code update, he requested that public comment on the topic be included in the meeting on April 4th.

Member Erickson stated that the Arboretum board meets on March 24th, he will follow up with them prior to their meeting as an update on the funding.

Member Bevans stated he attended the fish fry at St. Francis Church, and it was fantastic.

Adjourn

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

The Chair adjourned the meeting at 9:40 p.m.

Jennifer Bergman
City Administrator

Brainerd Contractor License List

03/31/2022

A C BUILDERS LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
9797 LEGIONVILLE RD	General Commercial	Active			2022-0024	12/31/2022

CJE ENTERPRISES LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
12201 ZIMMEL RD NE	Sign Erector	Active		12/31/2022	2022-0010	12/31/2022

ELITE COOL AND HEAT LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
5805 36TH ST SW	Mechanical	Active	MB783162	06/28/2023	2022-0058	12/31/2022

FABCON PRECAST, LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
8911 COLUMBINE RD	Residential Building	Active		12/31/2022	2022-0004	12/31/2022

GULL LAKE HEATING & A/C LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
5341 OX TRL SW	Mechanical	Active	MB688103	11/01/2022	2022-0057	12/31/2022

LAKE SHORE HEATING AND COOLI

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
7908 COUNTY 78	Mechanical	Active	MB776638	01/19/2023	2022-0056	12/31/2022

NORTHERN LAKES PLUMBING LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
PO BOX 681	Plumbing Contractor	Active	PC671456	12/31/2023	2022-0030	12/31/2022

Population: All Records

Licensee.DateRegistered Between 3/16/2022 12:00:00 AM AND 3/31/2022 12:00:00 AM



Brainerd Fire Department Monthly Report

March 2022

ACTIVITIES AND PUBLIC EDUCATION

We have had another busy month and are thankful the department continues to be healthy and ready to serve the community.



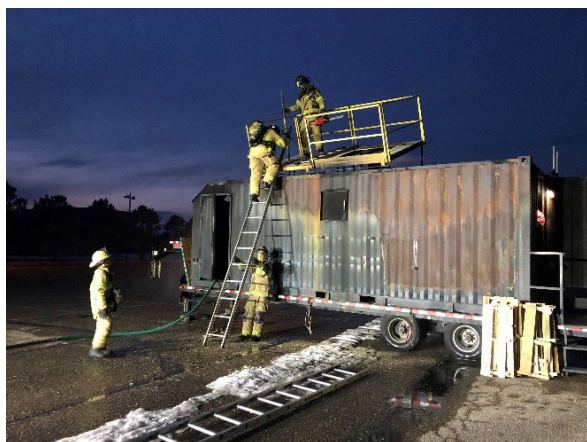
We had several public education opportunities in March. We hosted the Brainerd Chamber of Commerce Leadership group and presented them with information about the fire department and how we serve the community. They had the opportunity to try on our gear, carry hose, and go up in the platform of Tower 20. We also had a Cub Scout group station tour and a presentation to the Brainerd American Legion Auxiliary about being a female firefighter.



We assisted the Crosslake Police and Fire Departments with their annual St. Patrick's Day parade events with incident management and UAS operations. The fire department helped to fill several water tanks for the Cool School Polar Plunge at Forestview Middle School and the Brainerd High School. We are always honored to be part of community events.

TRAINING AND STAFF DEVELOPMENT

Training in March included EMS, Fire Investigation and Scene Preservation, and Coordinated Fire Attack with Vertical Ventilation. Firefighters also continue with Target Solutions online training.





Brainerd Fire Department Monthly Report

March 2022

INSPECTIONS	
Fire Alarm	15
Fire Pump	1
Hood Suppression	18
Knox Box	3
License Inspection	3
Safety Inspection	6
Special Suppression	1
Sprinkler System	27
Tier II Review	1

BRAINERD FIRE COVERAGE AREA INCIDENT REPORT	
Type of NFIRS Incident (National Fire Incident Reporting System)	Coverage Area Total Incidents (Includes City of Brainerd)
Fire	3
Rescue & Emergency Medical Service	6
Hazardous Condition	3
Service Calls	6
Good Intent Call	14
Alarm Activation	13
Severe Weather	0
TOTAL	45

Type of NFIRS Incident (National Fire Incident Reporting System)	City of Brainerd Total Incidents
Fire	0
Rescue & Emergency Medical Service	2
Hazardous Condition	1
Service Calls	5
Good Intent Call	10
Alarm Activation	9
Severe Weather	0
TOTAL	27

CROW WING COUNTY ALERT



Your safety is our top concern – that's why the City of Brainerd has teamed up with Crow Wing County to make sure you know about emergencies and incidents as they happen. This system allows the City of Brainerd to contact thousands of residents in seconds, so you can find out about an emergency right away.

How Does It Work? The City of Brainerd issues a message about a potential safety hazard or concern. Next, a message from Crow Wing County Alert will be sent through your primary contact path. The system will try to reach your second contact path and will continue to attempt to reach you until you confirm receipt of the message. Sign up at: <https://member.everbridge.net/index/892807736729514#/signup>.



CITY ENGINEER/PUBLIC WORKS DIRECTOR REPORT

APRIL 4, 2022, CITY COUNCIL MEETING

Recreation Report

Recreation

Adult

Softball

Brainerd Early Bird Tournament is Full. It is scheduled to take place on April 23, 2022 as an all-day experience. Teams decided to keep it a 1-day tournament and keep a waiting list in the event a team drops out. We currently have 4 teams on the waiting list, thus next year we may attempt to make this tournament a 2- day tournament based on interest. The pool and tournament schedule are complete and online as well as on the Facebook description of the event. We will partner with C&L distributing for making large bracket boards for the tournament.

Current registration spread is as follows:

Women's: 6

MS2: 12

MS1: 8

Masters/35+: 0

Coed: 13

MS2 and MS1 will commence the week of April 25.

Umpire staff attended the umpire clinic and we spoke on group alignment as well as some rules that would make the game more efficient in Brainerd. Umping staff will be hired beginning of April.

Inventory of adult softballs left over from 2021 season will be accounted for as we make our bulk purchase of softballs for 2022 summer and fall adult softball.

Warming Houses

Warming houses closed for the season on Saturday, March 5, 2022.

Statistical data is attached.

Special Events

1. Brainerd Easter Egg Hunt, April 16, 2022. This event will be held at 10 a.m. sharp in Gregory Park. This year we will be partnering with the Northern Pacific Center, and they will be hosting a drawing for bikes in each age group.
2. The Easter Ball Hunt, April 16, 2022. This event will be held at 2 p.m. in and around Buster Dog Park. Dogs will have the opportunity to search for tennis balls and keep what they find. Tennis balls will be hid around the Boom Lake Trail and along the Buffalo Hills Trail.
3. Earth Day, Friday April 22, from 9 a.m. to 12 p.m. Brainerd Parks and Recreation partnered with the Northland Arboretum coordinating a volunteer driven park pick up initiative. Local volunteers, service clubs, and students (CLC) will be participating in cleaning numerous parks.

Parks Maintenance Report

Agreements with Brainerd Bees and BBBA for Field Equipment Use

We were not able to pull together the agreements with BBBA and the Brainerd Bees for field equipment usage for this meeting. Staff will work with the City Attorney to get them on the April Park Board agenda.

Meeting with Rotary

Staff met with Rotary Members John Forrest and Pete Nelson to discuss items related to Rotary to ensure that we are

aligned in efforts as they relate to Rotary Park. The items discussed at the meeting include:

1. Memorial Benches – a bench has been purchased by the Behr Family and will be placed along the river.
2. Butternut Tree Donation – A Brainerd resident would like to donate Butternut Trees and was looking for a place to put them. Staff will be working with the Tree Inspector, James Kramvik, to ensure these trees will survive in this area, won't allow for any unwanted disease or bugs, and cover any other concerns he has.
3. Picnic Tables in new Rotary Pavilion – The plan is to replace picnic tables at Kiwanis Park with the 2022 improvements there. The tables that are currently at Kiwanis will be moved into the new Rotary Pavilion until such time where the budget allows us to place our new standardized table in this location.
4. Charcoal Grills – We have a few grills budgeted for 2022 and purchased and will likely place one or two near the new pavilion at Rotary Park.
5. Bike Racks – Rotary may take this on as a project for the pavilion area.
6. Trash receptacles – City staff will be placing receptacles at the new pavilion for summer.
7. Solar Power – Rotary is currently researching solar options and if it would be available to power the pavilion. There are many other questions that come along with this that will need to be fleshed out before anything moves forward with solar at Rotary Park.
8. Security Camera/Cameras – We will be working with City IT Staff to investigate how to get a camera or two on the new pavilion and see what power requirements are.
9. Parking Lot – This issue is in front of the Park Board tonight.
10. Gully Issue – This issue is described below in detail.
11. Bunker/Pump House – This issue is in front of the Park Board tonight.
12. Trail development – Staff will be dedicating an engineering intern to GPS in these trails and map them on City maps this summer.

Campground Host

Staff is currently advertising for the new campground host position and will bring it back at the April meeting for final approval if someone was indeed found to fill the position and sign the new agreement.

Public Works Addition Update

The interior remodel work at the Street Department has been completed. We do not anticipate the Parks Department staff moving until the fall or early winter at this time due to the addition not being constructed. The new unit heaters that were approved have been installed in the garage space in the street garage and are functioning.

Parks and Recreation Software

Staff have been researching the opportunity to upgrade Parks and Recreation reservation software with the current city website provider Civic Plus. This comes as our current providers contract end in September on this year, so it is a good opportunity to look at new software and change directions moving forward, as staff has had a lot of issues with the current provider.

Maintenance Tasks Completed Month Prior

- Removed wreathes and swags from downtown.
- Assembled and placed appliances in concession stands.
- Flooding and garbage run every day.
- Replaced cutting edge on plow.
- Edged rink ice.
- Fixed John Deere blower on skid steer.
- Cleaned out silt pit/ oil trap for shop floor drains.
- Jetted floor drainpipes.
- Hauled away old appliances to scrap.
- Removed excess snow from parking areas.
- Straitened and welded up groomer drag.
- Stowing all winter equipment and hockey related items.
- Delivered mower for recall fixes.

- Assembled and placed basketball stations.
- Assembled steel picnic tables for Memorial Park.
- Cleaned all warming houses.
- Cleaned and rebuilt frame for Jaycees Park sign.
- Replaced Gregory Park restroom divider.
- Deicing sidewalks.
- Poured more base anchors for baseball fields.
- Preparing items for Easter egg hunt.
- Repairing downtown flagpole.
- Assembled 10 park benches.
- Cleaning Jaycees Park concession stand.
- Removed cab, heater, and blower from X-750 and put mower deck on for summer.
- Fogged and stored all walk behind blowers.

Engineering Report

Historic Water Tower

Staff has been working with the consultant, LHB, on questions as they come in from bidders and also held a contractor walk-through at the historic water tower on March 25th, so contractors had the opportunity to get into the building and review the plans.

City Hall Annex

City Engineer/Public Works Director Sandy and IT Director Shawn Strong have been working with Region 5 on the development and plans of the Annex remodel. The annex plans are out for proposals currently, and a couple of contractor walkthroughs have been performed to get proposing contractors acquainted with the building and ask questions about the proposed project.

WJJY Community Focus

City Engineer/Public Works Director Sandy participated in WJJY Community Focus on March 14 to give an update on all of the construction projects taking place in 2022.

CEAM Interview Panel

City Engineer/Public Works Director Sandy participated in a MnDOT interview panel to assist MnDOT in their search for the new Assistant Division Director at State Aid. These interviews were held at MnDOT Central Office on March 16th.

CEAM Legislative Committee

Due to the current chair of the Legislative Committee of CEAM being absent, City Engineer/Public Works Director Sandy had to chair the CEAM Legislative Committee on March 18th. This committee reviews the actions from the legislature from the prior week and looks forward to the next week on opportunities to testify on behalf of the organization.

MnDOT Programming Update Workgroup

City Engineer/Public Works Director Sandy is part of the MnDOT PUW (Programming Update Workgroup) in which looks at existing federal funding programs administered through MnDOT and how those programs will be affected by the new bi-partisan infrastructure bill that went into law (IIJA). These existing programs will see an influx of new money, and this workgroup is tasked with making recommendations to MnDOT on how these funds should be distributed to MnDOT and local agencies (cities, counties, townships).

Section 725 Brainerd City Code

City staff have been working with HRGreen on an update to the City's MS4 program. With that update, and update and consolidation of the City's stormwater ordinances will be coming forth in the coming weeks. This will consolidate section 430, 720, and 725 in the City Code into one stormwater ordinance (Section 725). Much of the update is needed due to the new permit that the City has with the MPCA for the next 5 years.

Street Maintenance Report

City Street Department staff have been in a transition period of removing plow equipment from trucks and have begun our annual spring street sweeping over the past couple of weeks as the weather has allowed. Other maintenance tasks that have been taking place are below:

- Sanitary Sewer Crew will begin annual cleaning of high potential grease lines that need to be cleaned each spring.
- Working on troubleshooting an issue with the snowblower.
- Repairing miscellaneous equipment that was damaged over the winter months before going into storage.
- Monitoring streets during rain/sleet/snow events to stay ahead of ice build-up.
- Street sweeping.
- Ordering signs/paint/other materials for summer.

Transit Report

- Now running RouteMatch live on amazon web services and worked through all minor kinks.
- Working on procuring all new tablets for the buses.
- Worked with finance to closeout 2021 and finalized all 2021 MnDOT reporting.
- Meetings with Tom T. at Jefferson Lines regarding continued improvement.
- Identified and secured a new 2-way vendor Granite City Electronics.
- Our 2020 capital replacement bus is at North Central Bus and working with vendor to outfit.
- Framework and quarterly talks are completed.
- Transit Driver Appreciation Day was 3/18/2022.
- Working with Jenna regarding new dispatcher education/training.



HR DIRECTOR REPORT

In this report:

- NeoGov
- Employee Policy Manual Review
- Special Notes
- Personnel Update
- Wellness Committee

NeoGov

HR Staff recently met with NeoGov to coordinate the timeframe for our Onboarding module setup.

Originally NeoGov expected the project to go live in July; however, we have asked to fast track the process to mid-May so we can utilize the new system to onboard our summer temporary employees. Fast tracking the process requires a commitment of at least 10 hours per week on our end. With this in mind, Brittney, our HR Assistant, will be our lead for this project.

Employee Policy Manual Review

The Charter amendments regarding Parks and BPU employees reporting to the City Council instead of the Park Board/BPU Commission are now in effect (there was a 90-day waiting period after the Charter amendments were adopted by the City Council). The Council has directed Staff to begin reviewing the Employee Policy Manual to implement these changes.

Special Notes

Former BPU Superintendent Thomas Phelps passed away on March 24th. Our deepest sympathy is extended to his family.

Our HR/BPU Payroll team recently met with an employee (and his spouse) who is contemplating retirement. The meeting went well and we provided guidance to the employee regarding several things to consider before officially retiring.

The HR Department will be coordinating our August Lunch 'N Learn. Based on recent conversations, our focus will be addressing health care including items that employees can do to impact our premiums as well as a general info session to help prepare for retirement.

We have completed the annual League of MN Cities salary survey.

The BPU Finance Department is in the home stretch of completing their financial software conversion process.

Personnel

New Hires for City/BPU/HRA:

Cory Zeien - Airport ARFF (4/4)

Hunter Williams - Police Officer (4/11)

Farewell to:

John Ebertowski - Airport ARFF (3/15)

Julie Batters - BPU Accounting Supervisor (3/25)

David Chanski - Community Development Director (4/22)

Current Job Opportunities:

Full-time:

HRA Maintenance Specialist (job offer extended-pending background check)

HRA Administrative Specialist - New.

Interns and seasonal/temporary positions:

BPU Business Office Intern (interviews scheduled)

BPU Summer Maintenance (pending job offers)

Communications Intern

Community Development Intern (interviews scheduled)

Concession Workers (pending background checks)

Downtown Maintenance

Electric Department Interns

GIS/IT Intern

GIS/IT Intern - Tree Inventory

Parks Seasonal Maintenance Workers (pending background checks)

Parks Weekend Custodial Worker

Police Intern (pending job offer)

Street Department Seasonal Laborers

Umpires - Adult Softball (pending background checks)

There are currently six City/BPU/HRA employees with Family & Medical Leave Act (FMLA) issues. This includes two employees that are absent due to work-related injuries.

Met with City Administrator Bergman and Community Development Department Staff to discuss the transition process as a result of the Director Chanski's resignation.

Wellness Committee

March Lunch 'N Learn (3/16): Visit Brainerd

We had 53 employees attend and that was our highest turnout yet for this type of event. Holly Holm from Visit Brainerd did a great job highlighting all the activities we can do locally. Brittney, our HR Assistant, attended the Lunch 'N Learn and was pleasantly surprised at all our local options and that she thought someone would need to go to St. Cloud for a lot of those types of activities.

We submitted an updated listing to our online Wellness Program provider with employees that would like to participate in that program. If anyone is interested, please let me know and we can add you to our list.

We have not received confirmation yet if our Community Wellness Grant will be funded. That grant was submitted to Crow Wing Energized for a water bottle filling station at City Hall for employee and public use.

MEMO



TO: Mayor and City Council

FROM: City Administrator, Jennifer Bergman

DATE: April 4, 2022

RE: City Administrator Report

BPU Commission Meeting

The BPU Commission approved the Agreements with AEP for the purchase of power. They continue to work on the agreements with the end purchasers of the power. In addition, they discussed a draft "Organization Assistance Policy" regarding installation of banners. The Commission recommended a more detail policy be brought back to the April Commission meeting. They also discussed and approved the Purchase Agreement for the acquisition of the Roberts property.

Country Manor Tax Abatement Request

Country Manor requested tax abatement from the County at the March 15th Committee of the Whole meeting. Mayor Badeaux and I were in attendance. The County Board had some follow up questions of County staff regarding other tax abatement projects and they also discussed the potential of using ARP funds.

April Charter Commission Meeting

The Charter Commission will be meeting on April 20th to review the Streets chapter, discuss the language of the wards and to clarify the intent of the green space/arboretum

KRLS Board Retreat

Mary Koep asked County Administrator Tim Houle and I to lead a session on governance and strategic planning for the Kitchigami Regional Library (KRLS) Board on April 21st. We have a pre-planning meeting with Mrs. Koep and the new KRLS Director on April 7th.

Employee Policy Manual (EMP) Update

At the direction of the Council, HR Director Schubert and I have started working on the EPM. As we did with the restructuring of the Parks department, we were hoping that we could assemble a working group of two City Council and two BPU Commission members along with staff to discuss the EMP and implementation. We will be providing a draft to the city attorney and will schedule a meeting with Department Heads to review the draft. Our plan is to have a draft copy for your review at the first or second meeting in May.



COMMUNITY MEMBER OF THE MONTH

THE BRAINERD CITY COUNCIL AWARDS

Patrick Spradlin

Dedication to the Arts in Brainerd

Dave Badeaux
Mayor

David Chanski
Community Development Director

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

April 4, 2022

6:45 PM

WebEx Teleconference Call-In Information Call Toll-

Free: 1-844-992-4726

Access Code: 2499 290 1049

NOTICE TO THE PUBLIC: Council Member Erickson attending
SPW and Regular Council Meeting via WebEx from:
27 Lake Ridge Cir, Keystone, CO 80435

1. Approve Event/Parking Lot Closure Application- Lakes Area Music Festival Block Party
2. Approve a Clean-up Day Event with Lakes Area Skatepark Association
3. Reject Bids for Improvement 22-01-2022 Seal Coating Project
4. Approve Cost Share Agreement with Crow Wing County for 2022 Seal Coat Project in Maple Street Parking Lot
5. Approve Plans and Specifications and Authorize Quotes- Improvement 22-02-2022 Crack Sealing Project
6. Approve Professional Services Agreement with SEH for Improvement- 19-02- West Segment and NP Center Segment of the Cuyuna Lakes State Trail Construction Services
7. Set Public Hearing for Annual Municipal Separate Storm Sewer Annual Report
8. Resolution- Declaring Sufficiency of Petition and Setting a Public Hearing on a Vacation Commenced by a Majority of Abutting Landowners- Alley Blocks M and E, West Brainerd



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Approve Event/Parking Lot Closure Application - LAMF Block Party

☐ 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 an event/parking lot closure application for the Annual Lakes Area Music Festival Block Party, to be held on August 8, 2022 in the Laurel Street Parking Lot.	
Alternatives, Options, Effects on Others/Comments: This is the 4th annual Lakes Area Music Festival concert that is free to the public. There is a stage set up, portable sound facilities, etc. Sage on Laurel provides the power for the event each year, and there is amplified sound. The music is typically done by 8:30 PM. The applicant has indicated that Blakeman will be providing portable restrooms for the event. Waste Management will be providing refuse collection after the event.	
Recommended Action/Motion: Staff recommends approval of the attached event application with the conditions listed in the application.	
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>	



SPECIAL EVENT APPLICATION

Date of Application: 2022-03-26

Event applications can be submitted to the Engineering Department at 501 Laurel Street, Brainerd, MN 56401 or engineer@ci.brainerd.mn.us. Event applications that include a street closure must be submitted at least 30 calendar days prior to the event and will require City Council approval. All other event applications must be submitted at least 14 calendar days prior to the event.

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

Name of event: LAMF BLOCK PARTY

Organizer Information

Organizer's Name: MIKE ANGLAND
Organizer's Address: 15873 OLD STONEBRIDGE TRAIL
Event Contact Person: MIKE ANGLAND
Event Contact Daytime Phone: 218-821-1343
Event Contact E-mail Address: Mike.Angland@wsn.us.com
Contact Name/Number Day of Event: Mike Angland - 218-821-1343
For Profit/Nonprofit Status (type): NONPROFIT - Brainerd Restoration

Applicant information (if different from the event organizer):

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

Event Information

Event Details (list each date separately)

Event Date	Start Time	End Time	Event Location(s) – see locations listed below
2022-08-08	3:30	9:00	Laurel Street Parking Lot

☐ Recurring event (requires only one application submittal per year)

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

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

Description of Activities

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

THIS IS THE 4th ANNUAL LAKES AREA MUSIC FESTIVAL

CONCERT, THAT IS FREE TO THE PUBLIC

WE SET UP A STAGE, PORTABLE FACILITIES, ETC.

IT'S AN AWESOME EVENT, THANKS CITY OF BRAINERD

Site Information

Electrical usage



Yes



No

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

**POWER FOR SPEAKERS ON STAGE, WE USE SAGE POW
SARAH HAYDEN SHAW PROVIDES THIS EVERY YEAR**

Amplified Sound



Yes



No

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

**WE USE SPEAKERS EVERY YEAR AND WE'RE DONE
PLAYING BY 8:30 P.M.**

Restrooms provided



Yes



No

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

Company contracted for restrooms: **BLAKEMAN**

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

Signs, banners, and/or posters/flyers



Yes



No

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

Trash Receptacle Disposal



Yes



No

Company contracted for trash receptacle disposal: **WASTE MANAGEMENT**

Additional Event Information

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

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

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

Street Closure Request Information

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

Laurel Street Parking Lot

Date and time for beginning of street closures: 12:00 PM, 08-08-2022

Date and time for reopening of streets: 10:00 PM, 08-08-2022

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

Parking lot closure only. Applicant will be asked to send out notices to effected business owners near the parking lot.

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

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

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

Hold Harmless Agreement and Insurance Information

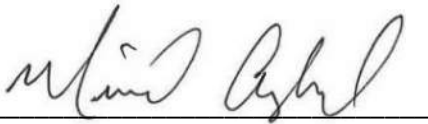
The Applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and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

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

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

Signature of Event Applicant

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



Signature of Applicant

MIKE ANGLAND

Print Name

Contacts, Permits, and Fees Checklist

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

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

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

Contact Information

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

For Official Use Only

Department Sign-offs Required

Department	Date/Initials	Comments
Brainerd Public Utilities	ok, 3/28	None
City Administration	ok, 3/28	Submit required insurance prior to event.
Engineering Department	ok, 3/28	Request traffic control 1-weeek prior to event.
Fire Department	ok, 3/28	None
Fire Support/EMS	ok, 3/28	None
Parks Department	ok, 3/28	None
Planning Department	ok, 3/28	None
Police Department	ok, 3/28	Police staff will be briefed on the event for anything needed by applicant.

Event Application Approval

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

City Administrator

Date

Approval Conditions

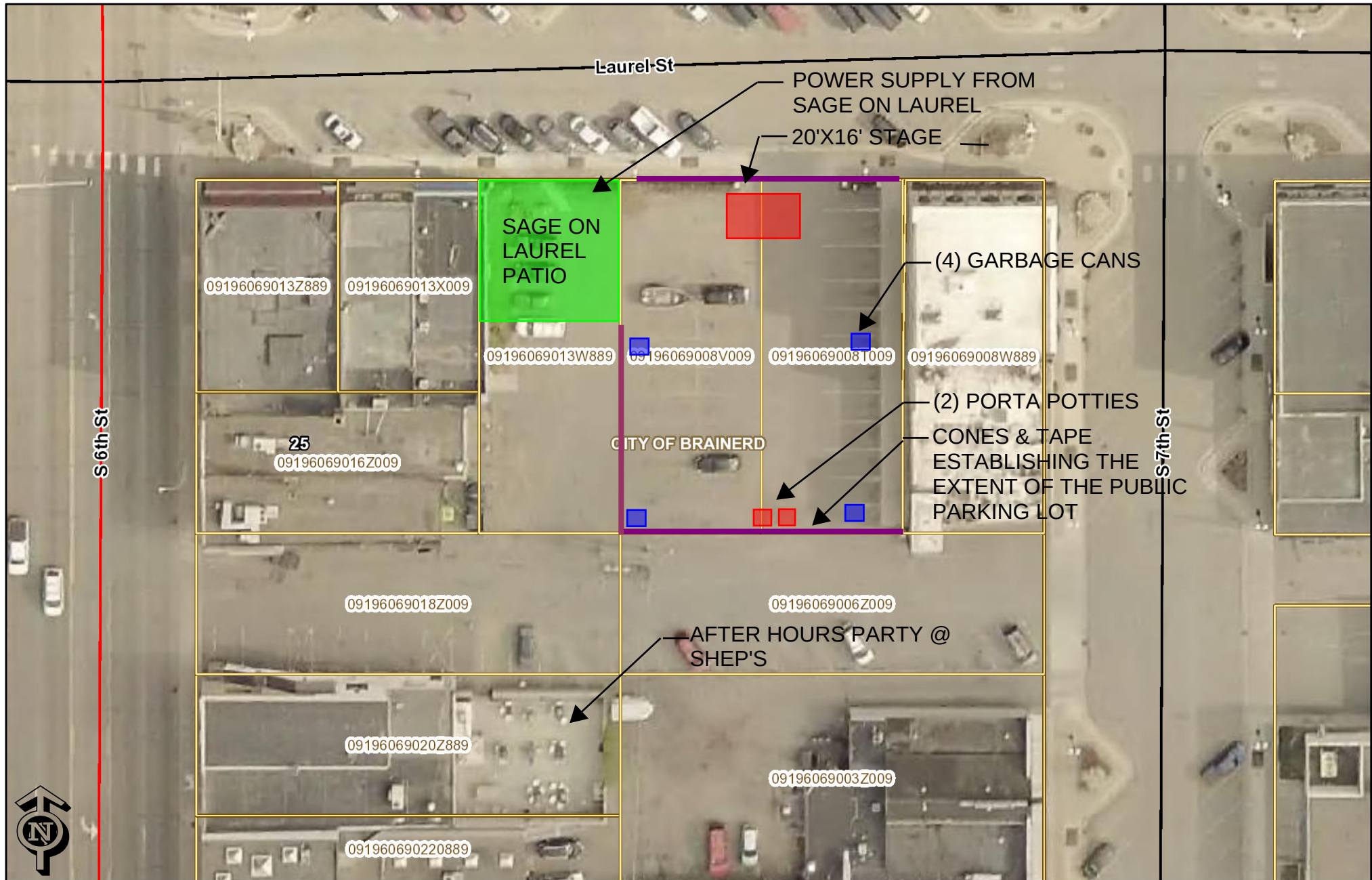
- Submit traffic control request 1-week prior to the event.
- Submit required insurance per the event application prior to the event.
-
-

Certification of Street Closure Approval

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

-
-
-
-

2022-03-26



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

Date: 7/25/2018 Time: 2:29:37 PM





Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Approve a Clean-up Day Event with Lakes Area Skatepark Association

☐ 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: Public Works
Presenter (Name & Title): City Engineer/Public Works Director Sandy	Estimated Time Needed: 10 Minutes
Summary of Issue: Please see the attached summary of activities that staff have been working through with Lakes Area Skatepark and Community Action regarding a clean up day.	
Alternatives, Options, Effects on Others/Comments: The City has done these in the past, with the last time being in 2019. A brief overview of clean-up days from the past is below: 2012: Voucher program with landfill - 240 users of city coupons - approx. city cost - \$3,700 2013: Dumpsters at central location - 38 users - approx. city cost - \$900 2019: Voucher program with Crow Wing Recycling and Midwest Recycling Solutions - 44 users - approx. city cost - \$1,000 Please see the attachment for the proposal that staff has been working on with Lakes Area Skatepark and Brainerd Community Action.	
Recommended Action/Motion: Staff recommends approving the concept for a city-wide clean-up day with a budget of \$4,500 for purchasing the dumpsters for use from Greenday Rolloff and Landscape Service, LLC.	
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>Budget \$4,500</u> <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i> Staff is proposing this come from Council Special Projects fund.	

Paul Sandy – City Engineer/Public Works Director for Brainerd

Jake Rennaker – Lakes Area Skate Park

Dave Badeaux – Brainerd Mayor and Director at Community Action (supporting Lakes Area Skate Park as fiscal host)

John Melson – Crow Wing County Facilities Director

Donnie Berg – Greenday Rolloff Services and Landscape Services, LLC

Date 05-21-2022

Location East Side of Crow Wing County Judicial Center Parking Lot

Roll off Provider Greenday Rolloff Services and Landscape Services, LLC

7 dumpsters with drive isles in-between for residents to dump their clean-up items. Dumpster breakdown below:

Clean-Up Day Dumpster Breakdown			
Size of Dumpster (CY)	Number of Dumpsters	Refuse Type	Minimum Fee
30	2	Solid Waste/Construction	None
30	1	Furniture and Sofa/Sleepers	\$7 Minimum for Furniture, \$30 Minimum for Sofa Sleepers
20	1	Appliances/Electronics	None
30	1	Mattresses	\$30 Minimum
20	1	Tires	\$7 Minimum Charge (no semi, tractor, or equipment tires)
20	1	Compost/Yard Debris/Sticks	None

We will not accept: Oil, antifreeze, batteries, scrap metal, propane tanks, household hazardous wastes, recycling, industrial solid waste, or asbestos.

Logistics

- Lakes Area Skate Park will handle the advertising for the event, take all donations and minimum charges the day of the event, and run the event logistics the day of the event.
- The City, if approved by the City Council on Monday night (4/4), will pay for the dumpsters. Lakes Area Skatepark will need to pay the landfill bill (using the minimum charges for the items the landfill charges for) after the event. All other proceeds will be Lakes Area Skate Parks to help with their fundraising.
- Lakes Area Skate Park will need to get proof of residency through a BPU bill at the gate for the event, seeing as we are using Brainerd tax-payer funds to pay for the dumpsters, it should only be used by Brainerd residents.
- Greenday will pick up the roll offs after the event and before traffic in the parking lot on Monday morning.



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Reject Bids for Improvement 22-01 - 2022 Seal Coating 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: Bids were received for Improvement 22-01 - 2022 Seal Coat Project on 3/18/2022 at 10:00 AM.	
Alternatives, Options, Effects on Others/Comments: Costs were well over engineer's estimate, with the lowest of the bids being Asphalt Surface Technologies Corporation at \$258,367.37. This is close to 73% over engineer's estimate. It is also important to note that the amount of seal coating that would be performed is less than what was performed in 2021 for less than the \$150,000 budgeted number. There is a fair amount of masking that would be performed with this seal coat project on College Drive to protect the colored crosswalks and also the ground in striping, however, indications are that the cost of that work was less than \$30,000, which makes the overage near \$80,000 for the actual seal coat work. The market conditions at this time are volatile, and the price for emulsion oil and materials are significantly more than last year. Being this is the case, it is staff's recommendation to shelf this project until next year, at which time, it can be hopefully be re-bid under more favorable conditions.	
Recommended Action/Motion: Staff recommends rejecting all of the bids for Improvement 22-01, and likewise, shelving these plans until next year where they could be re-bid under more favorable conditions.	
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>	

Contract 2022-01 - Bid Abstract

Release Date: 3/18/2022
Contract Name: 2022 Chip Seal Project
Contract Number: 2022-01
Release Date: 2/23/2022
Bidding: 3/18/2022, 10:00 AM S

Base Bid

22-01

					Asphalt Surface Technologies Corp.		Asphalt Preservation Company Inc.		Allied Blacktop Company	
Line	Item	Quantity	Est Price	Est Total	Price	Total	Price	Total	Price	Total
1 S	2021.501 MOBILIZATION (L) S	1 S	\$15,000.00	\$15,000.00	\$15,000.00 S	\$15,000.00 S	\$9,000.00 S	\$9,000.00 S	\$17,500.00	\$17,500.00
2 S	2355.506 BITUMINOUS MATERIAL FOR FOG SEAL (GAL) S	8,828.64	\$2.00 S	\$17,657.28 S	\$3.00 S	\$26,485.92 S	\$1.07 S	\$9,446.64 S	\$2.00 S	\$17,657.28
3 S	2356.504 BITUMINOUS SEAL COAT (S)	73,532 S	\$0.80 S	\$58,857.60	\$1.52 S	\$111,829.44 S	\$2.57 S	\$189,080.04 S	\$2.90 S	\$213,358.80
4 S	2356.506 BITUMINOUS MATERIAL FOR SEAL COAT (GAL) S	25,750.2	\$2.00 S	\$51,500.40	\$3.13 S	\$80,598.13 S	\$1.34 S	\$34,505.27 S	\$2.00 S	\$51,500.40
5 S	2563.601 TRAFFIC CONTROL (L) S	1 S	\$5,000.00	\$5,000.00 S	\$8,000.00 S	\$8,000.00 S	\$3,300.00 S	\$3,300.00 S	\$14,000.00	\$14,000.00
6 S	2580.503 INTERIM PAVEMENT MARKING (L F) S	7,624 S	\$0.20 S	\$1,524.80 S	\$0.52 S	\$3,964.48 S	\$0.50 S	\$3,812.00 S	\$0.50 S	\$3,812.00
7 S	2582.503 4" SOLID LINE MULTI COMP (L F) S	6,053 S	\$0.25 S	\$1,513.25 S	\$0.48 S	\$2,905.44 S	\$0.45 S	\$2,723.85 S	\$0.45 S	\$2,723.85
8 S	2582.503 4" BROKEN LINE MULTI COMP (L F) S	1,940 S	\$0.25 S	\$485.00 S	\$0.48 S	\$931.20 S	\$0.45 S	\$873.00 S	\$0.45 S	\$873.00
9 S	2582.503 4" DBLE SOLID LINE MULTI COMP (L F) S	2,844 S	\$0.50 S	\$1,422.00 S	\$0.96 S	\$2,730.24 S	\$0.90 S	\$2,559.60 S	\$0.90 S	\$2,559.60
10 S	2582.503 24" SOLID LINE MULTI COMP (L F) S	140 S	\$2.00 S	\$280.00 S	\$8.00 S	\$1,132.00 S	\$8.25 S	\$1,155.00 S	\$8.00 S	\$1,120.00
11	2582.503 4" DOTTED LINE MULTI COMP (L F) S	252 S	\$0.50 S	\$126.00 S	\$0.96 S	\$241.92 S	\$0.90 S	\$226.80 S	\$0.90 S	\$226.80
12 S	2582.518 PAVT M G MULTI COMP (S)	82 S	\$2.50 S	\$205.00 S	\$14.30 S	\$1,172.60 S	\$13.50 S	\$1,107.00 S	\$13.00 S	\$1,066.00
13 S	2582.518 CROS WALK MULTI COMP (S)	63 S	\$1.30 S	\$81.90 S	\$5.20 S	\$327.60 S	\$5.00 S	\$315.00 S	\$4.70 S	\$296.10 S
				Total		Total		Total		Total
				\$149,390.33		\$258,367.37		\$260,939.20		\$329,358.73

Est Total	Asphalt Surface Technologies Corp.	Asphalt Preservation Company Inc.	Allied Blacktop Company
\$149,390.33 S	\$258,367.37 S	\$260,939.20 S	\$329,358.73 S

Totals S

Est Total	Asphalt Surface Technologies Corp.	Asphalt Preservation Company Inc.	Allied Blacktop Company
\$149,390.33 S	\$258,367.37 S	\$260,939.20 S	\$329,358.73

I hereby certify that this is an exact reproduction of bids received.

License Number:

Signature:

Date: S



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Approve CSA with CWC - Seal Coat Project in Maple Street Parking Lot

☐ 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 proposed cost share agreement with Crow Wing County for participating in their seal coat project for the land services parking lot in 2022.	
Alternatives, Options, Effects on Others/Comments: The city owns the Maple Street parking lot, in which is directly adjacent and connected to the land services parking lot. Crow Wing County staff approached the city to see if we would be willing to participate in their project so we could seal coat the entire parking lot at once. Staff thought this to be a perfect time to seal coat the city owned parking area. This cost share agreement is for the City's portion of the seal coating. The total estimated cost (before bidding), is \$13,180.51 in which includes the 3% Crow Wing County administrative fee added into the total. Staff will not be recommending award of our annual seal coating contract due to pricing, so staff is recommending this project move forward with a small portion of the funds that we will have from the \$150,000 we budget annually in seal coating.	
Recommended Action/Motion: Staff recommends approval of the attached cost share agreement as presented and authorizing proper signatures on the document 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> \$ <u>\$13,180.51</u> <i>Is this budgeted?</i> ☐ Yes ☒ No <i>Please Explain:</i> This specific project is not budgeted for, as this opportunity arose after the 5-Year CIP adoption, however, there may be funds due to the Council not awarding the annual seal coat project (\$150,000).	

**CONSTRUCTION COST SHARE AGREEMENT
WITH THE CITY OF BRAINERD (CP 18-200-118 & CP 18-300-33)
FOR THE BITUMINOUS SEAL COAT OF
ROADWAYS UNDER THE JURISDICTION OF
CROW WING COUNTY, FIRST ASSESSMENT DISTRICT, CITY OF BRAINERD, CITY OF
CROSBY, CITY OF BREEZY POINT, CITY OF CROSSLAKE, CITY OF LAKESHORE,
DEERWOOD TOWNSHIP, JENKINS TOWNSHIP, MAPLE GROVE TOWNSHIP, AND MISSION
TOWNSHIP.**

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 Street, Brainerd, MN 56401 hereinafter referred to as the "City".

WITNESSETH

WHEREAS, the parties mutually agree that a bituminous seal coat desired by the City to be applied to the roadways listed in Attachment A has the potential to result in overall costs savings when combined with the County Project to provide a bituminous seal coat to County roadways and other local agency 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 BITUMINOUS SEAL COAT, 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 constructing project CP 18-200-118 & CP 18-300-33. This agreement identifies funding responsibilities and also future responsibilities upon project completion. Attachment B (estimate) is considered a part of this agreement.

II. Duties

A. Design and Construction

For this project, the County shall provide all design-engineering services unless otherwise stated in this agreement. The County shall provide all construction-engineering services, with the City being responsible for its share of design engineering/project development as identified in Attachment B. Attachment B is an estimate and final costs will be determined upon project completion. The County shall do the calling for all bids and the acceptance of all bid proposals and shall enter into a construction contract as the "owner" for purposes of the project.

B. Inspection and Approval

The County shall provide construction inspection and staking for the Project and approval for acceptance of the work as it is completed. The County shall also be available to inspect said work and notify the City of any concerns that arise during or after the completion of the Project. Approval of the completed construction shall be completed by the County and the City.

III. COSTS

A. Project Costs

The project costs identified in this agreement are based upon current estimates. Attachment B identifies the agreed upon cost share quantities and estimated costs. Actual final costs for each agency will be determined by actual final quantities.

B. SUMMARY OF ESTIMATED COSTS - The estimated construction and engineering costs of the projects are shown in Attachment B and are summarized as follows:

Total Estimated Construction Costs	\$2,588.857.84
Estimated City Construction Costs	\$11,982.28
Estimated City Engineering Costs	\$1,198.23
Total Estimated City Costs	\$13,180.51

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. Upon project completion, a final cost accounting will be performed totaling costs related to the Project. An invoice will be prepared by the County and submitted to the City. The City shall reimburse the County within 30 days of receipt of invoice.

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 upon completion of all obligations of the parties under this Agreement. This Agreement may be terminated prior to completion by either party only for breach of this Agreement or by mutual consent of the parties.

X. NOTICE

For purposes of deliver of any notices hereunder, the notice shall be effective if delivered to the Office of the Crow Wing County Highway Department, 16589 CR 142, Brainerd, MN 56401, on behalf of the County, and the city of Brainerd, 501 Laurel Street, Brainerd, MN 56401 on behalf of the City.

XI. INDEMNIFICATION

To the extent allowed by law, the County and the City 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, P.E.
Assistant County Engineer

Dated: _____

CITY OF BRAINERD

By: _____
Paul Sandy
City Engineer

Dated: _____

2022 SEAL COAT PROJECT
PROJECT NO. CP 18-200-118 & CP 18-300-33
CROW WING COUNTY, FIRST ASSESSMENT DISTRICT, CITY OF BRAINERD, CITY OF CROSBY,
CITY OF CROSSLAKE, CITY OF BREEZY POINT, CITY OF LAKESHORE , DEERWOOD TOWNSHIP,
JENKINS TOWNSHIP, MAPLE GROVE TOWNSHIP, AND MISSION TOWNSHIP.

Crow Wing County

CSAH 17	CSAH 3	CSAH 19	CR 168	CR 118
CSAH 4	CSAH 2	CSAH 36	CR 124	
CSAH 18	CSAH 30	CR 145	CR 111	

First Assessment District

GOULD GREY RD	BERNARD RD	JOHNSON RD
---------------	------------	------------

City of Crosby

WALLACE AVE	BIRCH ST	PINE ST
FRANKLIN AVE	2 ND ST SW	1 ST ST NW
2 ND AVE SW	HALLETT AVE NE	CROSS AVE S
3 RD AVE NE	4 TH ST NE	6 TH ST NE

City of Crosslake

WHITEFISH AVE	HILLTOP DR	WOODLAND DR
---------------	------------	-------------

City of Breezy Point

WHITEBIRCH DRIVE	SUFFOLK CIR	SUFFOLK DR
PAPAGO CIR		

City of Lakeshore

BASS LAKE RD	BASS LAKE TR	ROBINHOOD WAY
--------------	--------------	---------------

Deerwood Township

CEDAR LAKE RD	CEDAR SPRINGS LN	NORTH HAMLET RD
---------------	------------------	-----------------

Mission Township

MISSION CUTOFF RD

Jenkins Township

SILVER SANDS RD

Maple Grove Township

LIESURE LANE RD

City of Brainerd

PARKING LOT

ATTACHMENT B

ESTIMATED QUANTITIES																		ENGINEERS ESTIMATE														
NOTES	ITEM NUMBER	ITEM DESCRIPTION	UNITS	TOTAL QUANTITY	CROW WING COUNTY	CWC PARKING LOTS (COUNTY)	CITY OF BRAINERD PARKING LOTS	*FAD ROADS	CITY OF CROSBY	CITY OF CROSSLAKE	CITY OF LAKE SHORE	CITY OF BREEZY POINT	JENKINS TOWNSHIP	DEERWOOD TOWNSHIP	MISSION TOWNSHIP	MAPLE GROVE TOWNSHIP	ESTIMATED UNIT PRICE	CROW WING COUNTY	CWC PARKING LOTS (COUNTY)	CITY OF BRAINERD PARKING LOTS	*FAD ROADS	CITY OF CROSBY	CITY OF CROSSLAKE	CITY OF LAKE SHORE	CITY OF BREEZY POINT	JENKINS TOWNSHIP	DEERWOOD TOWNSHIP	MISSION TOWNSHIP	MAPLE GROVE TOWNSHIP	TOTAL COST		
	2021.501	MOBILIZATION	LUMP SUM	1	0.72	0.01	0.01	0.06	0.03	0.03	0.01	0.02	0.03	0.04	0.01	0.03	\$42,000.00	\$30,240.00	\$420.00	\$420.00	\$2,520.00	\$1,260.00	\$1,260.00	\$420.00	\$840.00	\$1,260.00	\$1,680.00	\$420.00	\$1,260.00	\$42,000.00		
1	2123.610	STREET SWEEPER (WITH PICKUP BROOM)	HOURL	28	0	5	5		7		3	2	4	2			\$150.00	\$0.00	\$750.00	\$750.00	\$0.00	\$1,050.00	\$450.00	\$300.00	\$600.00	\$0.00	\$300.00	\$0.00	\$0.00	\$4,200.00		
2	2355.500	BITUMINOUS MATERIAL FOR FOG SEAL	GALLON	60918	47001	161	226	2934	1543	1753	784	878	1600	2200	430	1408	\$3.00	\$141,003.00	\$483.00	\$678.00	\$8,802.00	\$4,629.00	\$5,259.00	\$2,352.00	\$2,634.00	\$4,800.00	\$6,600.00	\$1,290.00	\$4,224.00	\$182,754.00		
3	2356.504	BITUMINOUS SEAL COAT FA- 2.5	SQ YD	839061	607151	2678	3760	48899	25714	29220	13057	14633	26667	36659	7156	23467	\$1.52	\$922,869.52	\$4,070.56	\$5,715.20	\$74,326.48	\$39,085.28	\$44,414.40	\$19,846.64	\$22,242.16	\$40,533.84	\$55,721.68	\$10,877.12	\$35,669.84	\$1,275,372.72		
4,5	2356.506	BITUMINOUS MATERIAL FOR SEAL COAT	GALLON	297699	216530	937	1316	17115	9000	10227	4570	5122	9333	12831	2505	8213	\$3.13	\$677,738.90	\$4,119.08	\$53,569.95	\$28,170.00	\$32,010.51	\$14,304.10	\$16,031.86	\$29,212.84	\$40,219.84	\$78,460.65	\$25,706.69	\$931,797.87			
6	2563.601	TRAFFIC CONTROL	LUMP SUM	1	0.72	0.01	0.01	0.06	0.03	0.03	0.01	0.02	0.03	0.04	0.01	0.03	\$30,000.00	\$21,600.00	\$300.00	\$300.00	\$1,800.00	\$900.00	\$900.00	\$300.00	\$600.00	\$900.00	\$1,200.00	\$300.00	\$900.00	\$30,000.00		
	2580.503	INTERIM PAVEMENT MARKING	LIN FT	318151	308679			9472									\$0.15	\$46,301.85	\$0.00	\$0.00	\$1,420.80	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$47,722.65		
	2582.503	4" SOLID LINE PAINT	LIN FT	504033	478894			25139									\$0.09	\$43,100.46	\$0.00	\$0.00	\$2,262.51	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$45,362.97		
	2582.503	6" SOLID LINE PAINT	LIN FT	651	651												\$1.50	\$976.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$976.50		
	2582.503	24" SOLID LINE PAINT	LIN FT	729	729												\$3.00	\$2,187.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,187.00		
	2582.503	4" BROKEN LINE PAINT	LIN FT	25210	21580			3630									\$0.09	\$1,942.20	\$0.00	\$0.00	\$326.70	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,268.90		
	2582.503	8" DOTTED LINE PAINT	LIN FT	312	312												\$0.85	\$265.20	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$265.20		
	2582.503	4" DOUBLE SOLID LINE PAINT	LIN FT	126409	124615			1794									\$0.17	\$21,184.55	\$0.00	\$0.00	\$304.98	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$21,489.53		
	2582.518	PAVEMENT MESSAGE PAINT	SQ FT	703	703												\$3.50	\$2,460.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,460.50		
TOTAL																		\$1,911,869.68	\$8,956.37	\$11,982.28	\$145,333.42	\$75,094.28	\$84,293.91	\$37,522.74	\$42,948.02	\$76,706.13	\$105,662.71	\$20,727.77	\$67,760.53	\$2,588,857.84		
10% Design, Construction, and Contract Admin.																		\$0.00		\$1,198.23	\$0.00	\$7,509.43	\$8,429.39	\$3,752.27	\$4,294.80	\$7,670.61	\$10,566.27	\$2,072.78	\$6,776.05			
																		\$8,956.37		\$13,180.51	\$145,333.42	\$82,603.71	\$92,723.30	\$41,275.01	\$47,242.82	\$84,376.74	\$116,228.98	\$22,800.55	\$74,536.58			



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Approve P&S and Auth. Quotes - Imp 22-02 - 2022 Crack Sealing 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 the street list, engineer's estimate of project costs, and other documents as it related to improvement 22-02 - 2022 Crack Sealing Project.	
Alternatives, Options, Effects on Others/Comments: This is the project in which the City typically purchases the crack filling material off of the state contract, and then contract the actual labor of performing the crack sealing to an outside contractor. This year, the cost of the crack filling material was \$8,212.50. The estimated cost for the crack sealing labor seen attached is \$16,651.75. This makes for a total project estimated cost of \$24,864.25. The street list in which staff has identified for crack sealing can also be seen attached. It consists of many streets in which were intended to be seal coated in 2022, however, staff is not recommending award of that contract at this time.	
Recommended Action/Motion: Staff recommends approval of the plans and specification and authorizing receiving of quotes for the labor work for Improvement 22-02 - 2022 Crack Seal Project. Quotes will be due on May 6th, 2022 at 10:00 AM.	
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>Estimated \$24,864.25</u> <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i> We budget \$25,000 annually in crack sealing in the 5-Year Street and Sewer Capital Plan.	

Report Date: 3/28/2022

Contract Name: 2022 Crack Sealing Project

Contract Number: 2022-04

22-02 2022 Crack Sealing Project Crack Sealing

Engineer's Estimate

Category	Number	Description	Unit	Contract Quantity	Estimated Price	Estimated Amount
	2021.501	MOBILIZATION	LS	1	\$2,000.00	2,000
	2331.603	CRACK SEALING	L F	39,005	\$0.35	13,651.75
	2563.601	TRAFFIC CONTROL	LS	1	\$1,000.00	1,000
						Total
						16,651.75

Totals

Estimated Amount

\$16,651.75

License Number:

531635

Signature:

Paul Sanchez

Date:

3-28-2022

BROCKWHITE

CONSTRUCTION MATERIALS

CSG A CONSTRUCTION SUPPLY GROUP COMPANY

BROCK WHITE COMPANY, LLC
3855 INDEPENDENCE RD # 100
BAXTER, MN 56425

Phone: (218)829-1929
Toll Free: 800-201-1929
Fax: 218-829-0802

QUOTE

UPC VENDOR	QUOTE DATE	ORDER NO.
000000	02/22/22	15285616-00
TAKEN BY	P.O.NO.	PAGE #
dn	James Fladung	1

CUST #: 14862

SHIP TO: CITY OF BRAINERD-STREET DEPT
C/O CITY HALL
501 LAUREL ST
BRAINERD, MN 56401-3595

CORRESPONDENCE TO: BROCK WHITE COMPANY, LLC
3855 INDEPENDENCE RD # 100
BAXTER, MN 56425

BILL TO: CITY OF BRAINERD-STREET DEPT
C/O CITY HALL
501 LAUREL ST
BRAINERD, MN 56401-3595

JOB #	JOB NAME		
INSTRUCTIONS		TERMS	
		PD03	
SHIP POINT		SHIP VIA	SHIPPED
Brock White Brainerd - 470		BW TRUCK	

LINE NO.	PRODUCT AND DESCRIPTION	QUANTITY ORDERED	QUANTITY B.O.	QTY. SHIPPED	QTY. U/M	UNIT PRICE	AMOUNT (NET)
1	0200040 34535 CRAFCO BOX 515 MN / 535 ROADSAVER 34535 **Due to volatility of market, prices good for 30 days, Brock White can withdraw quote anytime due to Freight Rate Increases and or Manufacturer increases. □ □ □ □ □ □ □ □	11250			LB	0.73	8212.50
1 Lines Total		Qty Shipped Total		Total		8212.50	
				Invoice Total		8212.50	

Delivery: FOB CSG, freight allowed. Customer to unload. All promises for delivery are estimated as closely as possible. Best efforts will be made to ship within time promised, but we make no guarantee to do so.

Field Measurement: By others

Restocking Fee: 20%

Other Terms: CSG's standard terms and conditions apply, a copy is available on the www.constructionsupplygroup.com website. This quote is subject to acceptance within thirty (30) days

Non-Stock/Special Orders: Are accepted with the understanding that cancellation cannot be made after the order has been placed. Excess material or material ordered by mistake may not be returned.

Last Page **This quotation is valid for 7 days. All shipments are based on F.O.B, unless otherwise noted.**

CSG carries a complete line of construction specialties. Please see our catalog or call us for more information. You may also visit us at WWW.CONSTRUCTIONSUPPLYGROUP.COM.

2022 Crack Sealing Street Segment List						
Improvement 22-02 2022 Crack Sealing						
Street	From	To	Length (ft)	Street Width	Estimated Distance Between Cracks	Estimated LF Blow & Go
IMP. 22-02						
College Drive	CR 48	Quince Street	5777	48	100	2773
4th Street South	S 6th Street (371B)	College Drive	1714	44	10	7542
10th Street SE	Dead End	Willow Street	32	1990	20	3184
Brook Street	S 8th Street	13th Street SE	2008	40	20	4016
Willow Street	S 7th Street	13th Street SE	2274	42	20	4775
11th Street SE	Willow Street	Oak Street	2642	32	20	4227
12th Street SE	Willow Street	Oak Street	2633	32	20	4213
10th Avenue NE	TH 210	J Street	1907	32	100	610
H Street	1st Avenue NE	Mill Avenue	2853	40	20	5706
H Street	Mill Avenue	13th Avenue NE	1970	40	100	788
O Street	Mill Avenue	9th Avenue NE	732	32	20	1171
Imp. 22-02 Total =						39005

*Note: The City reserves the right to add or remove 30% of the planned quantity without the need for a price adjustment. Any deviation in the quantity above or below 30% can be subject to a price change by either party.



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Approve Professional Services Agreement with SEH for Improvement 19-02

☐ 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 proposal from SEH to perform construction observation and bidding services for the west segment and the NP Center Segment of Improvement 19-02 - Cuyuna Lakes State Trail Extension.	
Alternatives, Options, Effects on Others/Comments: Through the city's original agreement with SEH from 2019, staff has been working with them on the alternative alignments analysis report, Wetland delineations, final permitting, right of way support, working with the MnDNR on approvals that they need as far as the plans and specifications are concerned, and working through preliminary and final design on all three segments of the trail (east segment, west segment, and NP Center segment). All of these services are close to complete, so this professional services agreement would be for the construction services for the west and NP Center segment of the project. The city has a bonding request through the legislature in 2022 for the construction of the east segment. These plans are nearly complete but this PSA does not address those construction services as the City has not been awarded the money yet. The total cost of the services from SEH for the west and NP Center segment, which includes project management, scheduling, resident project representative construction observation, construction staking, is \$160,000, in which is a reimbursable expense through the MnDNR funds. This work also includes helping the City through the bidding phase of the west segment.	
Recommended Action/Motion: Staff recommends approval of the Professional Services Agreement with SEH in the total amount not to exceed \$160,000 for Improvement 19-02 - Cuyuna Lakes State Trail Extension.	
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>160,000</u> <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i> This becomes part of the project overall cost for construction and engineering costs.	



Building a Better World
for All of Us®

March 25, 2022

RE: City of Brainerd, Minnesota
Cuyuna Lakes State Trail - West & NPC Segments
Construction Engineering Professional Services
SEH No. P-BRDMN 161025 10.03

Mr. Paul Sandy, PE
City Engineer
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Dear Paul:

Thank you for the opportunity to continue to provide professional services to the City of Brainerd (City) for the construction of the West Segment and Northern Pacific Center (NPC) Segment of the Cuyuna Lakes State Trail (CLST), all for helping the City further its goal of constructing a continuous CLST segment through Brainerd that connects to the Paul Bunyan State Trail.

SEH has been working with the City over the last three years to develop this project including preparing studies, preliminary designs, final design, wetland delineations, permitting, agency involvement, right of way support, and fundraising support for all three segments (the last being the East Segment). The City has requested a proposal and scope of work to perform bidding support, construction administration and observation, and staking for the West and NPC Segments of this regional trail construction project in Brainerd, Minnesota.

PROJECT UNDERSTANDING

The construction scope is based on the separate NPC Segment and West Segment construction plan sets prepared by SEH. The NPC Segment bid was awarded to Knife River Corporation on March 21, 2022. A right of way agreement was approved in February with the Northern Pacific Center which includes the property owner self performing some of the construction activities. The West segment is planned to be bid this spring with bid alternate(s) to allow flexibility on awarding the contract. The current opinion of probable construction cost of the NPC Segment is \$715,000. The opinion of probable construction cost of the West Segment is \$875,000. These values exclude any contingencies.

SCOPE OF WORK

Project Management (included with all Tasks):

Project management and administration will be provided for all phases of the project.

- Perform general day-to-day project management and administration. Includes project accounting, invoicing, and record keeping.
- Ongoing coordination, communication, and scheduling – internal and external.
- Deliverables: Monthly invoices and copies of all pertinent Project correspondence.

Task 1: Construction Phase Services (Northern Pacific Center Segment):

SEH will provide Construction Administration, Construction Observation (RPR), and Construction Staking services for the project under the oversight of an SEH project manager as follows:

Subtask 1.1: Construction Administration Services

- Assist Client in preparing construction agreement.
- Conduct pre-construction conference.
- Review Contractor shop drawing submittals.
- Make periodic site visits (up to weekly) by Engineer to observe the progress and quality of the executed work of the Contractor(s) and to determine, in general, if such work is proceeding in accordance with the Contract Documents.
- Prepare and review Contractor applications for payment (two payment applications estimated).
- Prepare project completion punch list at Substantial Completion.
- Support City prepare MnDNR project close-out submittals.
- Assemble record drawings based on the Contractor-collected field measurements.

Subtask 1.2: Resident Project Representative (RPR) Services

- Provide part time construction observation by a Resident Project Representative or Graduate Engineer and or Intern for construction (320 hours included in budget).

Subtask 1.3: Construction Staking Services

- Provide one set of right of way and easement line stakes.
- Mark removals.
- Provide one set of storm sewer offset stakes.
- Stake retaining wall (1 wall).
- Provide one set of trail & road subgrade cut/fill offset stakes on 50-foot intervals.
- Provide one set of trail & road finished aggregate base blue tops on 50-foot intervals.
- Provide one set of concrete curb and gutter cut/fill stakes- 25-foot intervals.
- Provide one set of pedestrian ramp finished grade cut/fill stakes at each location (compliance with ADA construction requirements will be the responsibility of the Contractor).

Deliverables (Task 1): Agendas and meeting minutes/notes, copies of all pertinent project correspondence, record drawings.

Task 2: Bidding Phase Services (West Segment):

SEH will assist the City with publicly bidding the project as follows:

- Prepare proposal form and notice to bidders.
- Distribute plans via electronic and paper means to prospective bidders.
- Answer pre-bid questions from bidders.
- Facilitate a virtual bid opening via QuestCDN and Microsoft Teams.
- Review and tabulate bids.
- Prepare contract award recommendation letter.

Deliverables (Task 2): Bid tabulation, Construction Contract Award Recommendation.

Task 3: Construction Phase Services (West Segment):

SEH will provide Construction Administration, Construction Observation (RPR), and Construction Staking services for the project under the oversight of an SEH project manager as follows:

Subtask 3.1: Construction Administration Services

- Assist Client in preparing construction agreement.
- Conduct pre-construction conference.
- Review Contractor shop drawing submittals.
- Make periodic site visits (up to weekly) by Engineer to observe the progress and quality of the executed work of the Contractor(s) and to determine, in general, if such work is proceeding in accordance with the Contract Documents.
- Prepare and review Contractor applications for payment (three payment applications estimated).
- Prepare project completion punch list at Substantial Completion.
- Support City prepare MnDNR project close-out submittals.
- Assemble record drawings based on the Contractor-collected field measurements.

Subtask 3.2: Resident Project Representative (RPR) Services

- Provide part-time construction observation by a Resident Project Representative or Graduate Engineer and or Intern for construction (500 hours included in budget).

Subtask 3.3: Construction Staking Services

- Provide one set of right of way and easement line stakes.
- Mark removals.
- Provide one set of storm sewer offset stakes.
- Stake retaining walls (4 walls).
- Provide one set of trail & roads subgrade cut/fill offset stakes on 50-foot intervals.
- Provide one set of trail & roads finished aggregate base blue tops on 50-foot intervals.
- Provide one set of concrete curb and gutter cut/fill stakes- 25-foot intervals.
- Provide one set of pedestrian ramp finished grade cut/fill stakes at each location (compliance with ADA construction requirements will be the responsibility of the Contractor).

Deliverables (Task 3): Agendas and meeting minutes/notes, copies of all pertinent project correspondence, record drawings.

Additional Services:

The following services from Consultant are not included in this proposal but, if required, can be provided to the Client:

- Environmental (contamination related) Services.
- Permitting.
- Boundary surveys, plats, right-of-way plat preparation.
- Preparing and administering grant agreements such as with Minnesota Management and Budget Office (MMB).
- Construction Administration and RPR services beyond the hours assumed above.

Assumptions:

The following assumptions were made in preparing this proposal:

- Client will pay for permit application fees (not included in SEH's fee).
- Client will contract directly with and pay for any geotechnical services deemed necessary such as geotechnical investigation and construction materials testing.
- Client will pay for any advertising and publication fees, if any (not included in SEH's fees).

We will also furnish such Additional Services as you may request or as required.

Your budgetary limitations for construction of the Project should be provided to us in writing at an early date. We will endeavor to work within those limitations. Where appropriate, if the estimated cost exceeds the budget, we will either request an adjustment in the budget or suggest a revision in the extent or quality of the Project to assist in bringing construction cost back within the budget. We do not guarantee that our opinions of probable construction cost will not differ materially from negotiated prices or bids. If you wish greater assurance as to probable construction cost or if you wish formal estimates, an independent cost estimator should be employed.

SCHEDULE

Construction of the West and NPC Segments of the Cuyuna Lakes State Trail is planned for 2022.

COMPENSATION

SEH proposes to complete all the services listed in this scope of work on an hourly basis. Compensation will be based on the hourly cost of personnel plus reimbursable expenses, including reproductions, mileage and equipment. The following is a summary of our estimated fees for the scope of services for each task:

Work Task	Estimated Fee
Task 1 – Construction Phase (NPC Segment)	\$65,000.00
Task 2 – Bidding Support (West Segment)	\$5,000.00
Task 3 – Construction Phase (West Segment)	\$90,000.00
Total Fee	\$160,000.00

Thank you again for the opportunity to propose on this project. Please contact me with questions.

Sincerely,

SHORT ELLIOTT HENDRICKSON INC.



Scott Hedlund, PE, PMP
Senior Project Manager
(Lic. MN, LA)

sh

c: Casey Zins - SEH



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Set Public Hearing for Annual MS4 Report

☐ 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: Staff would like to set the MS4 public hearing for May 2, 2022 at 7:30 PM.	
Alternatives, Options, Effects on Others/Comments: A short presentation and an opportunity for the public to comment on the city's MS4 permit will occur at the meeting. This is an annual requirement of the city's MS4 permit with the MPCA.	
Recommended Action/Motion: Staff recommends setting the public hearing for the city's MS4 permit for May 2, 2022 at the regularly scheduled City Council meeting.	
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 ANNUAL STORMWATER PUBLIC MEETING

NOTICE is hereby given that the City Council of the City of Brainerd will hold the Annual Stormwater Public Meeting in the Council Chambers of the City Hall, 501 Laurel Street, Brainerd, Minnesota 56401 at 7:30 p.m. on Monday, May 2, 2022. Any person wishing to express an opinion on the matters to be considered will be heard orally or in writing.

Dated: April 4, 2022

Jennifer Bergman
City Administrator
City of Brainerd, Minnesota



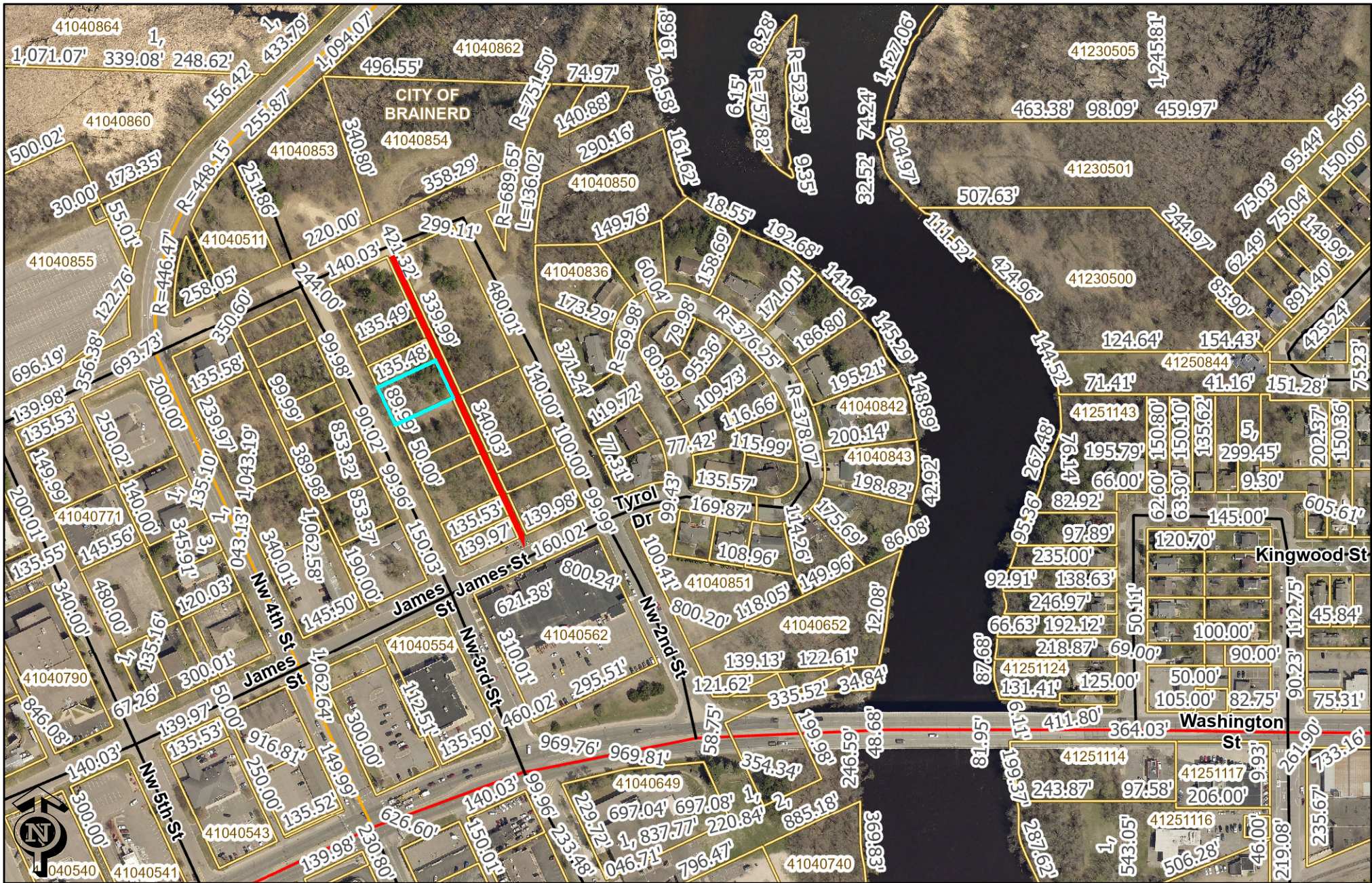
Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Res-Alley Vacation - Blocks M and E - West Brainerd - Set Public Hearing

☐ 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 petition to vacate the alley in Blocks M and E, West Brainerd. The petition was submitted by Vicky Kinney and My Neighbor to Love Coalition, LLC. A map of the proposed alley vacation is attached.	
Alternatives, Options, Effects on Others/Comments: In order to start the vacation proceedings, the City Council must adopt the attached resolution in which declares the petition sufficient (meaning proper signatures of a majority of abutting owners were obtained) and set the public hearing for May 2, 2022 at the regularly scheduled City Council meeting. The petition was signed by all of the abutting owners for these two alley-ways, in which a map of the proposed right of way can be seen attached. Two weeks published notice, and the last being at least 10 days before the hearing, must be provided.	
Recommended Action/Motion: Staff recommends adopting the attached resolution declaring that the petition is sufficient and sets the public hearing on the proposed vacation for May 2, 2022 at 7:30 PM.	
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>	

 RUSS J HALE
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES 01/31/25



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

Alley Vacation Map

Paul Sandy

Date: 3/28/2022 Time: 8:57:47 AM



NOTICE OF HEARING

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City of Brainerd has received a petition from Vicky Kinney for the vacation of alleys in Blocks M and E, West Brainerd, according to the plat thereof and legally described below:

That part of the alley located within Block E and Block M, WEST BRAINERD, according to the recorded plat thereof, Section 4, Township 133 North, Range 28 West, Crow Wing County Minnesota, which lies southerly of the southerly line of Jackson Street, and which lies northerly of the northerly line of James Street.

Notice is further given that the City Council of Brainerd will meet in the Council Chambers of the City Hall at Brainerd, Minnesota, at 7:30 p.m. on Monday, May 2, 2022 to conduct a Public Hearing to consider said Vacation.

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

Dated this 4th day of April, 2022

Jennifer Bergman
City Administrator

Publish - 2 times on
April 6, 2022 and April 13, 2022

R E S O L U T I O N
NO _____

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

WHEREAS, a petition signed by the majority of property owners abutting the alley in Blocks M and E, WEST BRAINERD in the City of Brainerd and was received by the City Clerk on the 14th day of March, 2022; and

WHEREAS, the petition requested that the City Council, pursuant to Minnesota Statute §412.851 and City Code Section 810, vacate alley ways legally described as the following:

That part of the alley located within Block E and Block M, WEST BRAINERD, according to the recorded plat thereof, Section 4, Township 133 North, Range 28 West, Crow Wing County Minnesota, which lies southerly of the southerly line of Jackson Street, and which lies northerly of the northerly line of James Street.

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

WHEREAS, a copy of said petition is attached hereto.

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

The Council will consider the vacation of such alley and a public hearing shall be held on such proposed vacation on the 2nd day of May 2022, before the City Council in the City Hall located at 501 Laurel Street, Brainerd, MN 56401 at 7:30 p.m. and;

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

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

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

April 4, 2022

6:45 PM

WebEx Teleconference Call-In Information

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

Access Code: 2480 318 7125

1. Approve Hiring List Paid On-Call Firefighters 2022 and Authorize to Hire
2. Approve Hiring of Police Officer Hunter Williams
3. Accept the Resignation of Community Development Director David Chanski
4. Authorization to Enter into Consultant Agreements for Sanitary and Storm Sewer Rate Design Studies
5. Discussion on the Number of On-Sale Liquor Licenses Issued to One Person
6. 2023 Capital Equipment and Facility Budget
7. Update on the Request for Funds to be Returned from Lakes Area Media Collaborative



Brainerd City Council Agenda Request

Requested Meeting Date: April 4th, 2022

Title of Item: Paid On-Call Firefighter Hiring 2022

☐ 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: Fire Chief Holmes	Department: Fire
Presenter (Name & Title): Fire Chief Holmes	Estimated Time Needed: 5 minutes
Summary of Issue: Request to establish a Paid On-Call Firefighter hiring list and hire up to 4 Paid On-Call Firefighters.	
Alternatives, Options, Effects on Others/Comments: The fire department has 36 paid-on-call firefighters. Historically the department has tried to maintain a POC staffing of up to 40 firefighters. We anticipate some retirements within the next year or so. Conduct testing in May and hire off of the list with a start date around July 2022. 2021 the council approved to establish a hiring list and hire up to 4 Paid On-Call Firefighters, but due to a low number of applications received the process was not completed and no one was hired in 2021.	
Recommended Action/Motion: Motion to approve the fire department to establish a Paid on Call Firefighter hiring list and to hire up to 4 Paid on Call Firefighters.	
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> Estimated \$1200 per firefighter for all pre-employment testing.	



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Approve Hiring of Police Officer Hunter Williams

☐ 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): Deputy Chief John Davis	Estimated Time Needed: 2 minutes
Summary of Issue: Police Officer candidate Hunter Williams has successfully completed the pre-employment screening process. Hunter is scheduled to start on Monday April 11, 2022. Hunter will start on the 2022 step 1, rate of \$29.79, pursuant to the current Law Enforcement Labor Services (LELS) Local #65 agreement.	
Alternatives, Options, Effects on Others/Comments: Hunter Williams puts our current staffing level at 25 officer for the budgeted 26 in 2022.	
Recommended Action/Motion: Hiring of Police Officer Hunter Williams, starting at the LELS Step 1 rate of \$29.79, with a starting date of April 11, 2022.	
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> This position is within the department's current 2022 budget.	



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Accept Resignation of Community Development Director David Chanski

☐ 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: Jennifer Bergman & Kris Schubert	Department: Administration/Human Resources
Presenter (Name & Title): Jennifer Bergman & Kris Schubert	Estimated Time Needed: 3 minutes
Summary of Issue: On March 22, 2022, Community Development Director David Chanski submitted his resignation. Mr. Chanski has accepted the position of City Administrator for the City of Breezy Point and his last working day for Brainerd will be Friday, April 22, 2022.	
Alternatives, Options, Effects on Others/Comments: We met with the Community Development Department Staff to discuss coverage during the hiring process. Staff recommends to appoint Assistant Planner James Kramvik as the Acting Community Development Director during the hiring process pursuant to Section 6, Subd. 4 - Acting Department Head Policy, of the Employee Policy Manual; further, that said temporary promotion/wage adjustment be negotiated with the IBEW Administrative Support Union. Staff would also appreciate if a Work Group could be formed comprised of a couple of City Council members (volunteers selected by the Council President), City Administrator Bergman and HR Director Schubert to oversee the hiring process.	
Recommended Action/Motion: Motion to: 1. Accept the resignation of Community Development Director David Chanski effective April 22, 2022. 2. Authorize Staff to negotiate an Memorandum of Agreement with the IBEW Administrative Support Union to appoint Assistant Planner James Kramvik as the Acting Community Development Director effective April 23, 2022; further, pursuant to our EPM, he should be placed on Step 1 of the Community Development Director Wage Grid. 3. Approve the formation of a Work Group comprised of a couple of City Council Members (with volunteers selected by the Council President), City Administrator Bergman and HR Director Schubert.	
Financial Impact: <i>Is there a cost associated with this request:</i> <i>What is the total cost, with tax and shipping</i> <i>Is this budgeted?</i> <i>Please Explain:</i> ☒ Yes ☐ No \$ _____ ☒ Yes ☐ No The Community Development Director position was included in the 2022 budget.	

March 22, 2022

Jennifer Bergman
City Administrator
501 Laurel St.
Brainerd, MN 56401

RECEIVED
MAR 22 2022
CITY OF BRAINERD
ADMINISTRATION

Dear Administrator Bergman,

Please accept this letter as my formal resignation as Community Development Director for the City of Brainerd. I have officially accepted the position of City Administrator for the City of Breezy Point, and my last day of employment with the City of Brainerd will be Friday, April 22, 2022.

My time with the City has been very rewarding, and I could never have asked for a better team to work with. I am proud of the many things that the City has accomplished over the last 3 years including adopting a new Comprehensive Plan, obtaining funding for the Mississippi Landing Trailhead, and, soon, adopting the new Zoning Code. I am also extremely proud of the Community Development Department. Since I became Community Development Director, the Department has seen a lot of transformation and is in great condition to provide exceptional service long into the future. The Community Development team is a tight knit, cohesive unit dedicated to providing the highest level of customer service. No accomplishment that I and the department have achieved would have been possible without this great group of people. The next Community Development Director will be inheriting a truly special group of people.

While many departments and individuals rarely get the public recognition that they deserve, the people that dedicate their lives to serve the City of Brainerd and its residents are truly one of a kind. It is often said that government work is thankless work. While that is often true, especially for the dedicated Community Development team, this City's employees show up every day ready to provide the highest level of service possible. I am proud to have called these men and women my colleagues and friends, and I will miss them all dearly.

Sincerely,



David C. Chanski

external candidates with or without conducting an internal recruitment process and has no obligation to select an internal candidate over an external candidate.

Subdivision 4. Acting Department Head Policy

The following provisions shall be followed for appointment of Acting Department Heads:

- A. An employee who is designated to act as a Department Head shall be compensated at the rate of pay of the lowest step on the wage grid for the Department Head position that would represent an increase in pay for the employee if appointed to the Department Head position as of the date of such designation consistent with these policies.
- B. An employee may be appointed to the position of Acting Department Head upon recommendation of the City Administrator through the Personnel and Finance Committee and final approval of the City Council.
- C. Subject to the provisions of any applicable collective bargaining agreement, upon appointment of a Department Head, the City may return the employee who was Acting Department Head to the position and rate of pay he or she held prior to appointment as Acting Department Head, unless the Acting Department Head is appointed to the Department Head position.
- D. It is understood that the employee appointed as Acting Department Head is receiving additional compensation as per the terms of this policy and that no additional compensation will be made if or when the employee returns to his/her previous position regardless if this policy is amended at any point in the future.
- E. With respect to BPU Department Head positions, an employee may be appointed to the position of Acting BPU Department Head upon approval by the BPU Commission. The BPU Commission shall seek the recommendation of the Human Resource Director and any remaining BPU Department Head before reaching a decision to appoint an acting BPU Department Head.
- F. Nothing in this policy provides, or can be construed as providing, any employee with the right to be selected as Acting Department Head or Department Head. Nothing within this policy alters, or can be construed as altering, the "at-will" nature of employment of Acting Department Heads.

RESOLUTION

No. 74:21

BE IT RESOLVED by the Council of the City of Brainerd that that the 2022-2023 wages for the following City Administrator, Department Heads and Non-Union Supervisory positions shall be based on the rates identified in the below 8-step grids:

City of Brainerd City Administrator, Department Heads and Non-Union Supervisors:

Police Administrative Supervisor, Recreation Specialist

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	28.39	29.81	31.23	32.65	34.07	35.49	36.91	38.33
1/1/2023	29.10	30.56	32.01	33.46	34.92	36.38	37.83	39.29

Assistant City Engineer, City Building Official, Recreation Coordinator

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	31.29	32.85	34.41	35.97	37.54	39.11	40.67	42.23
1/1/2023	32.07	33.67	35.27	36.88	38.48	40.08	41.69	43.29

Fire Marshal/Deputy Fire Chief, Transit Coordinator

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	34.41	36.13	37.85	39.57	41.29	43.01	44.73	46.45
1/1/2023	35.27	37.03	38.79	40.56	42.32	44.08	45.85	47.61

HR Director, IT/GIS Director

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	38.26	40.18	42.09	44.00	45.91	47.82	49.74	51.65
1/1/2023	39.22	41.18	43.14	45.10	47.06	49.02	50.98	52.94

Community Development Director, Fire Chief

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	39.02	40.97	42.92	44.87	46.82	48.77	50.72	52.67
1/1/2023	39.99	42.00	43.99	45.99	47.99	49.99	51.99	53.99

Finance Director

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	40.97	43.02	45.06	47.11	49.16	51.21	53.26	55.31
1/1/2023	42.00	44.10	46.19	48.29	50.39	52.49	54.59	56.69

City Engineer

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	46.10	48.40	50.70	53.00	55.31	57.62	59.92	62.22
1/1/2023	47.25	49.61	51.97	54.33	56.69	59.05	61.42	63.78

City Administrator

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	56.35	59.17	61.98	64.79	67.61	70.43	73.25	76.06
1/1/2023	57.75	60.64	63.53	66.41	69.30	72.19	75.08	77.96



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Authorization to Enter into Consultant Agreements for Plans & Rate Studies

☐ 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/Paul Sandy	Department: Finance/Public Works
Presenter (Name & Title): Finance Director Hillman	Estimated Time Needed: 5 Minutes
Summary of Issue: The City hired a consultant in 2018 to prepare financial plans and rate design studies for sanitary and storm sewer rates. Staff is recommending hiring the same consultant, Utility Financial Solutions (UFS), to conduct a rate study in 2022 for potential rate adjustments in 2023. BPU uses and has used UFS for many years to conduct rate studies. Staff reached out to UFS and received the attached proposals. UFS is proposing \$5,900 for Storm and \$6,200 for Sanitary.	
Alternatives, Options, Effects on Others/Comments: \$3,000 and \$5,500 were budgeted in professional services in the Storm and Sanitary sewer funds respectively in 2022. However, the same amounts were budgeted in 2021 and the studies were not complete.	
Recommended Action/Motion: Authorize staff to enter into agreements with UFS as represented, to prepare financial plans and rate design studies for the sanitary and storm sewer rates.	
Financial Impact: Is there a cost associated with this request: ☒ Yes ☐ No What is the total cost, with tax and shipping \$ 12,100 Is this budgeted? ☒ Yes ☐ No Please Explain: Between 2021 and 2022, \$17,000 was budgeted for a rate study.	



BRAINERD MINNESOTA

A City for All Seasons

City of Brainerd

Stormwater Collection System Financial Plan and Rate Design Study

March 21, 2022



UTILITY FINANCIAL
SOLUTIONS, LLC

Corporate location:
Utility Financial Solutions, LLC
185 Sun Meadow Court
Holland, MI USA 49424
(616) 393-9722
Fax (888) 566-4430

Submitted Respectfully by:
Mark Beauchamp, CPA, CMA, MBA
President, Utility Financial Solutions, LLC
mbeauchamp@ufsweb.com
(616) 393-9722

March 21, 2022

Mr. Paul G. Sandy, P.E.
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Utility Financial Solutions, LLC (UFS) is pleased to submit a proposal to provide a stormwater collection system financial projection and rate design study for the City of Brainerd (City). Our proposal is based on our prior experience with completing cost of service studies for municipal utilities around the United States. is an internationally known firm with a long-standing relationship and history of assisting municipalities with financial analysis and are recognized experts in the utility field. UFS personnel are instructors for the American Public Power Association, Southern Gas Association, and the National Association of Regulatory Utility Commissioners. Courses UFS instruct include financial planning, cost of service, rate design, and a series of Commission training programs.

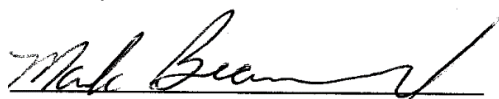
Proposed Project Manager, Mr. Mark Beauchamp: Mark will oversee project management and contractual agreements. Mr. Beauchamp began Utility Financial Solutions, LLC in 2001 and is the current President of UFS. With industry experience since 1981, Mark has worked with utilities to complete over one thousand cost of service studies. His degrees include Water Purification Technology, Accounting and MBA. His background provides unique experience and knowledge to share with utilities and includes a Class A license in wastewater treatment, water treatment license, Certified Public Accountant and Certified Management Accountant. This unique background has identified Mark as an industry leader in utility cost of service and rate design.

Prior Experience: UFS is comprised of experienced staff including economists, engineers, and finance professionals. Our reputation has allowed us to be the recommended rate consulting firm for numerous associations and agencies around the country. Our extensive experience provides utilities with studies that can be relied upon. Please feel free to contact the references included in this proposal.

Project Approach: UFS has obtained rate approval for many utilities. Our unique approach includes development of key targets to keep the utility financially stable, development of minimum and maximum levels of rate adjustments, and identification of a long-term rate track for the utility. The key targets and development of the rate track is used as part of an educational presentation for the governing body to obtain guidance and input in the rate making process. Our methodology and the education provided is why we have grown to be the preferred provider of rate study services in the United States.

We appreciate the opportunity to submit this proposal and look forward to discussing it with you. If you have questions or need additional information, please contact me at 616.403.5450.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Beauchamp", is written over a horizontal line.

Mark Beauchamp, CPA, MBA, CMA
President, Utility Financial Solutions, LLC

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Understanding of Project Requirements

The City of Brainerd (City) provides stormwater collection services to customers located in its service territory and is requesting the services of a utility rate consultant to complete a stormwater collection system financial plan and rate study. Our proposed work plan is consistent with established methodologies and a summary of the project deliverables is listed below:

1. Stormwater collection system financial projection and long term rate track

- Determine revenue requirements based on fully allocated cost method, including direct and indirect costs
- Develop a long-term financial plan with rate track that incorporates future capital improvements and debt service
- Identify amount and timing of potential future debt issuances
- Develop minimum cash reserve levels
- Project cash reserves

2. Stormwater collection system rate design for 2023

- Develop rates to adequately fund utility operations, capital costs, and bonded debt
- Analyze effects of implementing changes to the current rate structure on customers based on varying levels of usage

3. Optional presentation of study results

- Optional presentation of results to Council and Management

Our approach to this project was developed to meet the objectives of the City and our prior experience in preparing stormwater studies for publicly-owned utilities around the nation. Our proposed work plan is designed to meet the requirements and methodologies established by the American Public Power Association and American Public Works Association. Our technical approach and work plan include the following sections:

- Preliminary tasks to complete study
- One year rate design
- Optional presentation

To meet the objectives, we propose the following approach to the project. The proposed work plan will be finalized during initial meeting with management.

Preliminary Tasks

Task One - Review of Relevant Reports

Review of certain reports is necessary to ensure the models are established to fit the specific requirements of the City. Listed below are examples of reports to obtain and review.

- Monthly financial, operating and maintenance reports
- Asset summary of investments
- Rate schedules

Task Two - Collect and Verify Data

Meeting with utility management is critical to ensure final reports will meet objectives of the City and the information request prepared by UFS is understood. Specific objectives of the meeting will be to identify the following:

- Clarify scope of services and specific expectations of management
- Review the City's chart of accounts and determine strengths and weaknesses and its consistency with utility accounting practices
- Discuss with management the strengths and weaknesses of determining utility revenue requirements using a utility basis vs. cash basis
- Gain an understanding of customers

Task Three - Preparation of Data Request

Based on discussion with management and staff, we will prepare an information request that will include the necessary information to complete the study:

- Financial projection (stormwater collection system):
 - Financial statements for 2021
 - Current work-in-process and future capital improvement plans
 - Copies of rate schedules and any special contracts

Summary of Ability

A summary of the firm's ability to achieve the Utility's project goals.

Introduction

The Utility is issuing a stormwater cost of service study and financial plan to assess and evaluate the existing rates and make recommendations to ensure the utility operations and maintenance, capital improvement program, depreciation, and debts are adequately funded, while rate impacts are minimized. UFS has the staff available to complete the project in the Utility's desired timeframe. UFS' ability to achieve the Utility's project goals is best demonstrated by our references (noted in a later section) and our organized and well thought out processes outlined below.

Model Set Up

After project award, if selected, UFS will conduct a kick-off meeting to review the information request and confirm the project schedule and deliverables. As data is gathered by the Utility, UFS will process and enter it into the model. Progress calls will be scheduled to address any questions and to review outstanding data requests. UFS will analyze revenues by completing a revenue "proof" to ensure that the monthly billing units provided calculate out to the reported sales revenue when multiplied by current rate schedules.

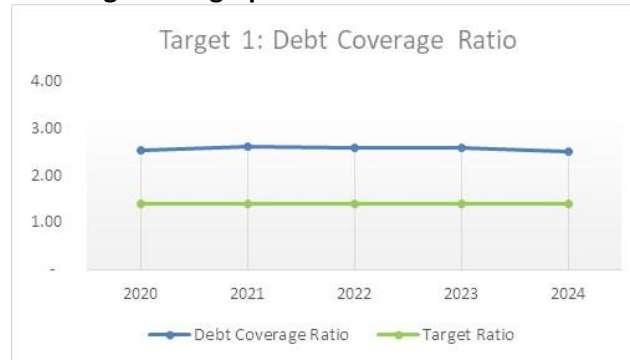
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Target One: Debt Coverage Ratio

Based on review of bond issues and debt service schedules, the principal and interest expense will be identified and incorporated into the analysis. We will provide a table as shown below to compare projected Debt Service Ratios with requirements in the Bond Ordinance.

Sample Report Table: Debt Coverage Ratio graph and calculation:



Description	Projected Y1	Projected Y2	Projected Y3	Projected Y4	Projected Y5
Net Income	\$ 996,826	\$ 997,462	\$ 945,213	\$ 826,113	\$ 758,497
Add Depreciation/Amortization Expense	2,565,601	2,609,101	2,732,859	2,921,523	3,057,531
Add Interest Expense	764,408	726,408	688,408	648,408	606,408
Cash Generated from Operations	\$ 4,326,835	\$ 4,332,972	\$ 4,366,480	\$ 4,396,044	\$ 4,422,435
Debt Principal and Interest	\$ 1,714,408	\$ 1,676,408	\$ 1,688,408	\$ 1,698,408	\$ 1,706,408
Projected Debt Coverage Ratio (Covenants)	2.52	2.58	2.59	2.59	2.59
Minimum Debt Coverage Ratio	1.4	1.4	1.4	1.4	1.4

Target Two: Minimum Cash Reserve Calculation

To help ensure timely completion of capital improvements and enable the utility to meet requirements for large, unexpected expenditures and risk factors, the recommended minimum level of cash reserves will be identified. Development of the minimum cash reserves considers several factors. A sample list is below:

- Working capital
- Variations in expenses
- Capital improvement programs
- Annual bond payments
- Exposure to catastrophic events such as extreme weather

Sample Report Table: Minimum Cash Reserves



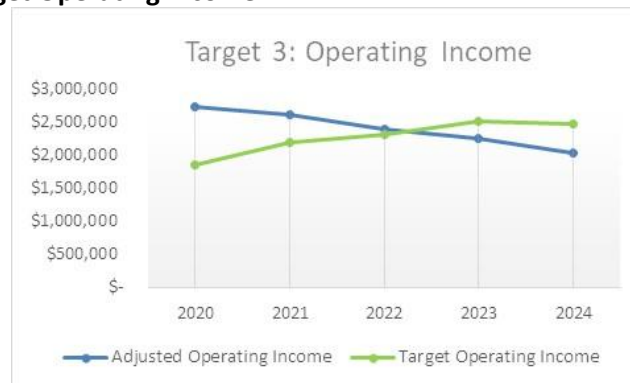
Description	Projected Y1	Projected Y2	Projected Y3	Projected Y4	Projected Y5
Minimum Cash Reserve Allocation					
Operation & Maintenance Less Depreciation Expense	25.0%	25.0%	25.0%	25.0%	25.0%
Purchase Power Expense	25.0%	25.0%	25.0%	25.0%	25.0%
Historical Rate Base	2.0%	2.0%	2.0%	2.0%	2.0%
Current Portion of Debt Service Payment	83%	83%	83%	83%	83%
Five Year Capital Improvements - Net of bond proceeds	20%	20%	20%	20%	20%
% Plant Depreciated	56%	54%	55%	55%	59%
Calculated Minimum Cash Level					
Operation & Maintenance Less Depreciation Expense	\$ 6,589,952	\$ 6,762,400	\$ 6,941,318	\$ 7,153,036	\$ 7,281,393
Purchase Power Expense	8,381,482	9,722,132	9,982,984	10,548,544	9,731,911
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Five Year Capital Improvements - Net of bond proceeds	3,939,646	3,939,646	3,939,646	3,939,646	3,939,646
Minimum Cash Reserve Levels	\$21,829,952	\$23,514,810	\$24,043,138	\$24,935,462	\$24,293,667
Projected Cash Reserves	\$24,692,803	\$19,224,903	\$17,829,253	\$15,047,239	\$17,559,446

Target Three: Operating Income

The optimal target for setting rates is the establishment of a target operating income to consistently fund capital improvements and replacements. Development of this target considers the following:

- Interest expense on the outstanding debt
- Inflationary increase on asset replacement costs
- Assets contributed by customers to the Utility

Sample Report Table: Target Operating Income



Description	Projected Y1	Projected Y2	Projected Y3	Projected Y4	Projected Y5
Target Operating Income Determinants					
Net Book Value/Working Capital	\$33,525,928	\$38,888,526	\$39,931,938	\$42,194,174	\$38,927,644
Outstanding Principal on Debt	18,160,200	17,210,200	16,210,200	15,160,200	14,060,200
System Equity	\$15,365,728	\$21,678,326	\$23,721,738	\$27,033,974	\$24,867,444
Target Operating Income Allocation					
Interest on Debt	4.21%	4.22%	4.25%	4.28%	4.31%
System Equity	7.06%	6.73%	6.87%	6.90%	7.48%
Target Operating Income					
System Equity	\$ 1,085,106	\$ 1,459,590	\$ 1,629,338	\$ 1,864,944	\$ 1,859,437
Target Operating Income	\$ 1,849,514	\$ 2,185,998	\$ 2,317,746	\$ 2,513,352	\$ 2,465,845
Projected Operating Income	\$ 2,728,770	\$ 2,599,641	\$ 2,394,956	\$ 2,247,337	\$ 2,037,669
Rate of Return in %	5.5%	5.6%	5.8%	6.0%	6.3%

Five-Year Projection Summary

The projections will be summarized, and development of alternative rate tracks will be reviewed and compared to each financial target to help ensure the future financial stability of the utility. We will work with Management and the Governing body in review and development of five-year strategies and rate track. All adjustments are tied to the cost of service study for the test year, so results can easily be updated, and sensitivities run within the same model.

Projected Summary Financial before Rate Adjustments

Fiscal Year	Projected Rate Adjustments	Adjusted Operating Income	Target Operating Income	Projected Cash Balances	Recommended Minimum Cash	Capital Improvements Plan	Debt Coverage Ratio
Year 1	0.0%	\$ 2,728,770	\$ 3,038,480	\$ 16,392,621	\$ 18,099,160	\$ 6,065,000	1.10
Year 2	0.0%	2,711,845	3,019,772	14,592,541	19,169,551	2,175,000	1.11
Year 3	0.0%	2,622,411	3,061,319	10,964,992	19,674,886	4,012,870	1.11
Year 4	0.0%	2,473,225	3,149,568	5,938,354	20,516,844	5,420,360	1.12
Year 5	0.0%	2,380,491	3,098,229	4,959,247	20,862,261	1,380,000	1.12

Projected Summary Financials with Rate Adjustment and \$5.0 million bond issuance

Fiscal Year	Projected Rate Adjustments	Adjusted Operating Income	Target Operating Income	Projected Cash Balances	Recommended Minimum Cash	Capital Improvements Plan	Debt Coverage Ratio
Year 1	2.0%	\$ 3,350,054	\$ 3,038,480	\$ 17,013,904	\$ 18,099,160	\$ 6,065,000	1.26
Year 2	2.0%	3,972,613	3,019,772	22,477,689	19,169,551	2,175,000	1.44
Year 3	1.0%	4,216,200	3,061,319	21,453,355	19,674,886	4,012,870	1.53
Year 4	1.0%	4,407,444	3,149,568	21,578,377	20,516,844	5,420,360	1.62
Year 5	1.0%	4,662,614	3,098,229	21,908,593	20,862,261	1,380,000	1.71

Format of Reports

UFS reports are typically separated into the reports listed below:

- **Power Point Summary** - A concise presentation of study results that is shared with management and staff prior to developing a proposed rate design. This summary will include graphs, charts, tables, and recommendations.
- **Executive Summary Report** – An overview that identifies the objectives, process, and results of the rate study in a clear and concise format, the report includes graphs, charts, tables, and recommendations.
- **Rate Design Recommendation Report** - The rate design report includes the following:
 - Comparison of the current and proposed rates
 - Expected revenues generated from proposed rates
 - Impact on customer classes at various usage levels or load factors within each rate class

Optional Presentation of Results

A critical aspect of the study is the clear and concise presentation to management and the Council. UFS professionals are skilled at explaining and working with advisory and Governing bodies to ensure decisions are based on information they can understand and apply to the local environment.

Meetings and Presentations

We don't anticipate an on-site meeting to complete the analysis. The following meetings are anticipated:

1. Initial meeting – Clarify scope of services, expectations of management and preliminary fieldwork (conference call)
2. Review draft reports with Management (Conference call)
3. Conduct presentation to Management and the Council (Conference call / Optional On-Site)

We are available for presentations as requested by Management as listed in the Project Fees section of this proposal.

Deliverables for Stormwater Collection System Financial Plan and Rate Design Study

- Executive Summary for Management and the Council
- Detailed report for Management
- Stormwater collection system Financial Projection and long term rate track
- Stormwater collection system rate design for 2023
- Optional presentation to Management and the Council

Project Fees

Prices, terms, and conditions are good for a period of 90 days from the proposal date of March 21, 2022.
Payment will be made through submission of invoice which itemizes the work performed.

Total fees for Scope of Services

\$5,900

Out of Scope Services

Out of Scope services will be billed at the hourly rates listed below.
Any out of pocket expenses will be billed at cost.

Name	Title	Hourly Rate
Mark Beauchamp	President	\$330.00
Dawn Lund	Vice President	\$290.00
Dan Kasbohm	Manager	\$255.00
Mike Johnson	Manager	\$255.00
Chris Lund	Business and Technology Manager	\$255.00
Jillian Jurczyk	Financial Analyst	\$175.00
Joan Bakenhus	Senior Financial Analyst	\$155.00
Robert Blank	Financial Analyst	\$120.00

In addition, travel time will be billed at 50% off regular rates.

Proposed Professional Services Agreement

Prices, terms, and conditions are good for a period of 90 days from the date of this proposal March 21, 2022.

Payment will be made through submission of invoice which itemizes the work performed.

Total project fees for Scope of Services are \$5,900

Anticipated Meetings:

- Initial meeting – Conference call to clarify scope of services, expectations of management, and preliminary information request
- Fieldwork – Conference call to verify data provided
- Draft report with management - Conference call
- Final report with management – Conference call
- As an option we can be available for on-site presentations as requested by management

Deliverables:

- 1) Long-term financial projection and rate track
- 2) Minimum cash reserve determination
- 3) Target operating income (rate of return)
- 4) One-year rate design & revenue proof

Out of Scope Pricing

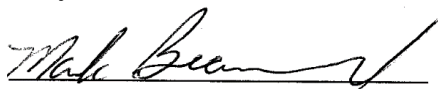
Any on-site visit if deemed necessary and agreed upon, will be billed at actual out of pocket expenses – plus travel time discounted at 50% of regular rates. In addition, out of scope service work hours are billed at the hourly rates listed on this page.

Hourly Rates (travel is discounted at 50%)

Mark Beauchamp	\$ 330.00
Dawn Lund	\$ 290.00
Dan Kasbohm	\$ 255.00
Mike Johnson	\$ 255.00
Chris Lund	\$ 255.00
Jillian Jurczyk	\$ 175.00
Joan Bakenhus	\$ 155.00
Support Staff	\$ 65.00 – 120.00

We look forward to exceeding your expectations. Please sign, date, and return to clund@ufswweb.com at your earliest convenience.

Sincerely,



Mark Beauchamp, CPA, MBA, CMA
President, Utility Financial Solutions, LLC

Date: _____

Accepted By: _____

City of Brainerd



BRAINERD

MINNESOTA

A City for All Seasons

City of Brainerd

Wastewater Collection System Financial Plan and Rate Design Study

March 21, 2022



Corporate location:
Utility Financial Solutions, LLC
185 Sun Meadow Court
Holland, MI USA 49424
(616) 393-9722
Fax (888) 566-4430

Submitted Respectfully by:
Mark Beauchamp, CPA, CMA, MBA
President, Utility Financial Solutions, LLC
mbeauchamp@ufsweb.com
(616) 393-9722



March 21, 2022

Mr. Paul G. Sandy, P.E.
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Utility Financial Solutions, LLC (UFS) is pleased to submit a proposal to provide a wastewater collection system financial projection and rate design study for the City of Brainerd (City). Our proposal is based on our prior experience with completing cost of service studies for municipal utilities around the United States. UFS is an internationally known firm with a long-standing relationship and history of assisting municipalities with financial analysis and are recognized experts in the utility field. UFS personnel are instructors for the American Public Power Association, Southern Gas Association, and the National Association of Regulatory Utility Commissioners. Courses UFS instruct include financial planning, cost of service, rate design, and a series of Commission training programs.

Proposed Project Manager, Mr. Mark Beauchamp: Mark will oversee project management and contractual agreements. Mr. Beauchamp began Utility Financial Solutions, LLC in 2001 and is the current President of UFS. With industry experience since 1981, Mark has worked with utilities to complete over one thousand cost of service studies. His degrees include Water Purification Technology, Accounting and MBA. His background provides unique experience and knowledge to share with utilities and includes a Class A license in wastewater treatment, water treatment license, Certified Public Accountant and Certified Management Accountant. This unique background has identified Mark as an industry leader in utility cost of service and rate design.

Prior Experience: UFS is comprised of experienced staff including economists, engineers, and finance professionals. Our reputation has allowed us to be the recommended rate consulting firm for numerous associations and agencies around the country. Our extensive experience provides utilities with studies that can be relied upon.

Project Approach: UFS has obtained rate approval for many utilities. Our unique approach includes development of key targets to keep the utility financially stable, development of minimum and maximum levels of rate adjustments, and identification of a long-term rate track for the utility. The key targets and development of the rate track is used as part of an educational presentation for the governing body to obtain guidance and input in the rate making process. Our methodology and the education provided is why we have grown to be the preferred provider of rate study services in the United States.

We appreciate the opportunity to submit this proposal and look forward to discussing it with you. If you have questions or need additional information, please contact me at 616.403.5450.

Sincerely,

A handwritten signature in black ink that reads "Mark Beauchamp". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Mark Beauchamp, CPA, MBA, CMA
President, Utility Financial Solutions, LLC

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Understanding of Project Requirements

The City of Brainerd (City) provides wastewater collection services to customers located in its service territory and is requesting the services of a utility rate consultant to complete a wastewater collection system financial plan and rate study. Our proposed work plan is consistent with established methodologies and a summary of the project deliverables is listed below:

1. Wastewater collection system financial projection and long term rate track

- Determine revenue requirements based on fully allocated cost method; including direct and indirect cost's
- Develop a long-term financial plan with rate track that incorporates future capital improvements and debt service
- Identify amount and timing of potential future debt issuances
- Develop minimum cash reserve levels
- Project cash reserves

2. Wastewater collection system rate design for 2023

- Develop rates to adequately fund utility operations, capital costs, and bonded debt
- Analyze effects of implementing changes to the current rate structure on customers based on varying levels of usage

3. Optional presentation of study results

- Optional presentation of results to the Council and Management

Our approach to this project was developed to meet the objectives of the City and our prior experience in preparing wastewater studies for publicly-owned utilities around the nation. Our proposed work plan is designed to meet the requirements and methodologies established by the American Public Power Association and American Public Works Association. Our Technical Approach and Work Plan include the following sections:

- Preliminary Tasks to Complete Study
- One year Rate Design
- Optional Presentation

To meet the objectives, we propose the following approach to the project. The proposed work plan will be finalized during initial meeting with management.

Preliminary Tasks

Task One - Review of Relevant Reports

Review of certain reports is necessary to ensure the models are established to fit the specific requirements of the City. Listed below are examples of reports to obtain and review.

- Monthly financial, operating and maintenance reports
- Asset summary of investments
- Rate schedules

Task Two - Collect and Verify Data

Meeting with utility management is critical to ensure final reports will meet objectives of the City and the information request prepared by UFS is understood. Specific objectives of the meeting will be to identify the following:

- Clarify scope of services and specific expectations of management
- Review the City's chart of accounts and determine strengths and weaknesses and its consistency with utility accounting practices
- Discuss with management the strengths and weaknesses of determining utility revenue requirements using a utility basis vs. cash basis
- Gain an understanding of customers

Task Three - Preparation of Data Request

Based on discussion with management and staff, we will prepare an information request that will include the necessary information to complete the study:

- Financial Projection (wastewater collection system):
 - Financial statements for 2021
 - Current work-in-process and future capital improvement plans
 - Copies of rate schedules and any special contracts

Summary of Ability

A summary of the firm's ability to achieve the Utility's project goals.

Introduction

The Utility is issuing a wastewater cost of service study and financial plan to assess and evaluate the existing rates and make recommendations to ensure the utility operations and maintenance, capital improvement program, depreciation, and debts are adequately funded, while rate impacts are minimized. UFS has the staff available to complete the project in the Utility's desired timeframe. UFS' ability to achieve the Utility's project goals is best demonstrated by our references (noted in a later section) and our organized and well thought out processes outlined below.

Model Set Up

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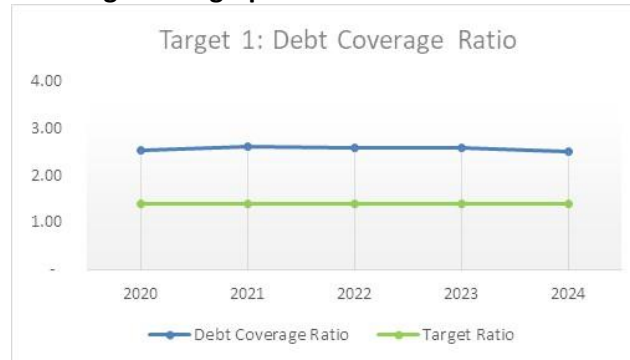
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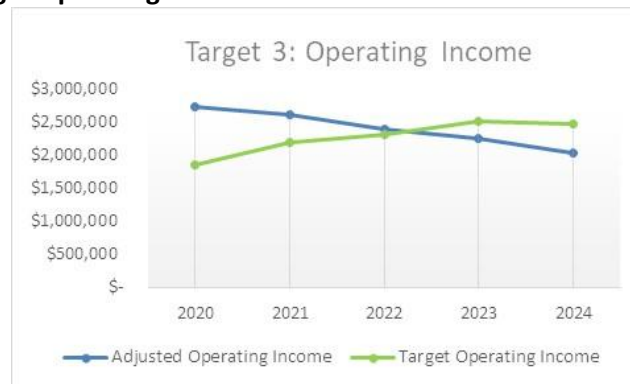
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Format of Reports

UFS reports are separated into reports listed below:

- **Executive Summary Report** – An overview that identifies the objectives, process, and results of the rate study in a clear and concise format, the report includes graphs, charts, tables, and recommendations.
- **Full Report** – Includes all the detailed schedules developed to complete the study and includes the executive summary report
- **Rate Design Recommendation Report** for one (1) test year – The rate design report is a separate module. To ensure efficiency and timeliness of the study the executive summary and the full detail report are provided to management for input into the rate design process. The rate design report includes the following:
 - Comparison of the current and proposed rates
 - Expected revenues generated from proposed rates
 - Impact on customer classes at various usage levels or load factors within each rate class

Optional Presentation of Results

A critical aspect of the study is the clear and concise presentation to management and the Council. UFS professionals are skilled at explaining and working with advisory and governing bodies to ensure decisions are based on information they can understand and apply to the local environment.

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1. Initial meeting – Clarify scope of services, expectations of management and preliminary fieldwork (conference call)
2. Review draft reports with management (Conference call)
3. Conduct presentation to Management and the Council (Conference call / Optional On-Site)

We are available for presentations as requested by management as listed in the Project Fees section of this proposal.

Deliverables for Wastewater Collection System Financial Plan and Rate Design Study

- Executive Summary for Management and the Council
- Detailed report for Management
- Wastewater collection system financial projection and long term rate track
- Wastewater collection system rate design for 2023
- Optional Presentation to Management and the Council

Project Fees

Prices, terms, and conditions are good for a period of 90 days from this proposal date of March 21, 2022.
Payment will be made through submission of invoice which itemizes the work performed.

Total fees for Scope of Services

\$6,200

Out of Scope Services

Out of Scope services will be billed at the hourly rates listed below.
Any out of pocket expenses will be billed at cost.

Name	Title	Hourly Rate
Mark Beauchamp	President	\$330.00
Dawn Lund	Vice President	\$290.00
Dan Kasbohm	Manager	\$255.00
Mike Johnson	Manager	\$255.00
Chris Lund	Business and Technology Manager	\$255.00
Jillian Jurczyk	Financial Analyst	\$175.00
Joan Bakenhus	Senior Financial Analyst	\$155.00
Robert Blank	Financial Analyst	\$120.00

In addition, travel time will be billed at 50% off regular rates.

Proposed Professional Services Agreement

Prices, terms, and conditions are good for a period of 90 days from the date of this proposal March 21, 2022.

Payment will be made through submission of invoice which itemizes the work performed.

Total project fees for Scope of Services are \$6,200

Anticipated Meetings:

- Initial meeting – Conference Call to clarify scope of services, expectations of management and preliminary information request
- Fieldwork – Conference Call to verify data provided
- Report with management - Conference call
- As an option we can be available for on-site presentations as requested by management

Hourly Rates (travel is discounted at 50%)

Mark Beauchamp	\$ 330.00
Dawn Lund	\$ 290.00
Dan Kasbohm	\$ 255.00
Mike Johnson	\$ 255.00
Chris Lund	\$ 255.00
Jillian Jurczyk	\$ 175.00
Joan Bakenhus	\$ 155.00
Support Staff	\$ 65.00 – 120.00

Deliverables:

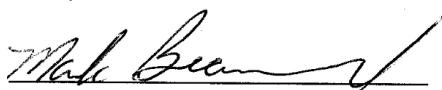
- 1) Long-term financial projection and rate track
- 2) Minimum cash reserve determination
- 3) Target operating income (rate of return)
- 4) One-year rate design & revenue proof

Out of Scope Services – on-site and travel expenses:

Any on-site visit if deemed necessary and agreed upon, will be billed at actual out of pocket expenses – plus travel time discounted at 50% of regular rates. In addition, out of scope service work hours are billed at the hourly rates listed on this page.

We look forward to exceeding your expectations. Please sign, date, and return to clund@ufsweb.com at your earliest convenience.

Sincerely,



Mark Beauchamp, CPA, MBA, CMA
President, Utility Financial Solutions, LLC

Date:

Accepted By:

City of Brainerd



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Discussion of the Number of On-Sale Liquor Licenses

☐ 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: 5 Minutes
Summary of Issue: Staff has received inquiries if a current on-sale liquor license holder is able to get a secondary on-sale liquor license. Per review city code section 1200, section 1200.11 does not allow a person to have more than 1 on-sale intoxicating liquor license. Staff checked with the state and state statute does not limit the number of on-sale liquor licenses a person can have. The state only limits the off-sale holder to one license. Staff's recommendation would be to match state statute and not have a limit to the number of on-sale liquor licenses that can directly or indirectly be issued within the City to any one person. A suggested language change to section 1200.11 is attached.	
Alternatives, Options, Effects on Others/Comments: Section 1200.11 was amended in 1996. From what Staff could tell, it was amended remove the Crow Wing County residency requirement and that no more than one class of intoxicating liquor license shall issued within the City to any one person. It seems that an individual who had an on-sale license, applied for an off-sale license and the previous city code did not allow for such licensure. Staff discuss internally, and the only reason we could see the City's desire to impose a limit on the number of on-sale licenses that one person could hold, could be to potentially prevent one individual from being able to hold all 12 Class 1 "bar" licenses the City is allowed per state statute. Council may want to consider changing section 1200.03 Subd. 2 as well. A suggested language change is also attached.	
Recommended Action/Motion: Discussion on the number of on-sale intoxicating liquor licenses that can be directly or indirectly issues within the City to any one person.	
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>	

1200.11 Person Ineligible for License. No license shall be granted to any person made ineligible for such license by State law. No more than ~~one on-sale and~~ one off-sale intoxicating liquor license shall be directly or indirectly issued within the City to any one person.

Section 1200.03 – License Required:

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

- a) In order to hold an on-sale license, a restaurant must meet the requirements of Minnesota Statutes section 340A.101, subdivision 25, have facilities for serving not less than 30 guests at one time, and maintain a Category 3 food establishment license as defined in Minnesota Statutes section 157.16, subdivision 3.
- b) Recipients of on-sale licenses are divided into three classes:
 - i. Class 1: bars, pubs and taverns.
 - ii. Class 2: restaurants.
 - iii. Class 3: other (e.g., clubs, bowling centers, and hotels).
- c) The number of Class 1 on-sale licenses (for bars, pubs and taverns) that may be issued by the City cannot exceed 12. **No more than one on-sale intoxicating liquor license of Class 1 shall be directly or indirectly issued within the City to any one person.**
- d) All applicants for an on-sale license shall submit plans and specifications of their proposed building for Council approval.



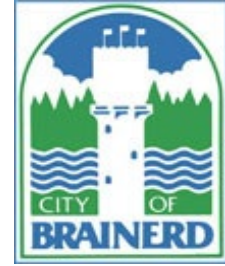
Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Discussion of 2023 Capital Equipment and Facility Budget

☐ 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: 30 Minutes
Summary of Issue: Please see the attached memo.	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion: Input from council on the 2023 planned capital items and long term capital planning.	
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 Part of overall budget plan <u>Please Explain:</u>	

MEMO



TO: Mayor and Council
FROM: Finance Director Connie Hillman
DATE: March 30, 2022
RE: 2023 Equipment and Facilities Budget

Attached you will find:

- Comparison of what was recommended by Staff for years 2023-2027 at the end of 2021 when preparing the 2022 budget, and what is being recommended currently by Staff for the same period.
- A portion of the 30-year capital equipment and facilities plan for the Working Funds – General, Police, Fire (only for Civil Defense portion) Parks, and Streets. These are the funds which are primarily supported through the tax levy.
- A portion of the 30-year capital equipment plan for Fire equipment.
- A portion of the 30- year capital equipment and facilities combining the above two plans - **Informational**

COMPARISON OF 2023-2027 PLAN:

If price was the only change, items were not highlighted. As a reminder, the capital plans do not include a factor for inflation. The current plan serves more as a place holder for assets rather than the actual cost of the asset. Prices for 2023 items will likely change between now and when the budget is officially adopted in December 2022.

The items noted (**added fall 2021**) were added to 2023 during the timeframe of March 2021 – when the 2022 facility and equipment budgets were presented and December 2021 when the budget was adopted.

The “x” for vehicles, are leased vehicles that do not incur additional build up costs. For example, additional equipment needs to be added to the police cars and that is the placeholder for replacement of the vehicles, but for Community Development additional equipment is not needed. The x is the placeholder, and the cost will be included in the operating budget.

Facilities:

- **2023:**
 - Jaycees – Pavilion; and Concession/Warming House/Restroom: When the Park Board was discussing Jaycees Park it was decided that a pavilion was no longer needed, and the Concession/Warming House/Restroom is going to

require more rehab/improvements than the \$75,000 that was previously budgeted could provide.

City Hall - General:

- **2023:**
 - Welcome Signs: This item was put in the plan by a prior City Administrator for the maintenance of the signs. The Parks department mows and maintains the signs so Staff did not feel this needs to be in the capital plan.

IT/GIS:

- **2023:**
 - Phone System: The server for the current phone system was budgeted to be replaced in 2021 but it was not done due to COVID and availability of parts etc at an estimated cost of \$25,000. Rather than purchase a new server to host the phone system, it is suggested to move our phone system to a hosted solution aka the cloud. This item is not a new item perse in the budget for 2023, rather a price adjustment from the 2021 budget. Net effect to plan is \$35,000. This eliminates most large future replacement costs other than the phones themselves and possible software upgrades. This timeline also coincides with the expiration of our 5-year contract with CTC which would be the opportunity to end the \$400/mo cost (PRI) to connect the existing phone system, after the migration the phones would use our existing internet connection.
 - Security Cameras: The amount in the 2023 budget is for the Public Works Facility and was not part of the overall cost included as part of the remodel being done in 2022.
 - Door Access Control: The amount in the 2023 budget is for the Public Works Facility and was not part of the overall cost included as part of the remodel being done in 2022.
- **2024:**
 - Network Switches: Moved from 2025 to 2024. Corresponds with the costs of migrating the finance/permit and document imaging software to be hosted in the cloud.
 - Cell Phones: City cell phones are scheduled to be replaced every three years. This is currently a place holder because recent cell phone replacements have been (nearly) free. We anticipate this will likely continue in 2024 but cannot predict when free replacements may be discontinued and we will have to pay the price of the phones.
 - Software – Finance/Permit/Document Imaging – to Cloud: Moved from 2025 to 2024 and included the BS&A software. This is the estimated cost of the migration. The timing was changed due to the timing of replacing servers.

By moving more applications to the cloud, eventually the City will not need to budget for a server to be replaced every year as the City will be able to reduce the number of physical servers it needs to operate.

- ID Card Printer: Moved replacement from 2024 to 2026 because the previous printer failed early (2020) and the 8-year replacement rate will be reduced to 6 years.
- **2025:**
 - Phone System: Phone system purchased in 2015 was scheduled to be replaced in 2025. With moving the system as planned to the cloud in 2023, the budget for the phone system components was reduced.

Police:

- **2025:**
 - Firearm Replacement: Moved from 2025 to 2030.

Fire:

- **2023:**
 - Purchase of Squad 1: Squad 1 is currently on a 5-year lease. With the shortage of parts and other changes in auto manufacturing, getting vehicles through Enterprise, or anywhere is getting more and more difficult. The Chief suggested during last years' process to purchase the squad at the end of the lease and not incur the costs of the build-up. Staff would like to explore this option and when we start preparing the operating budget and have a better idea of what is happening in the market in August/September look at changing from leases vehicles for some departments to purchasing again.
- **2024:**
 - Rescue Apparatus: Moved purchase from 2026 to 2024 due to the current condition of the apparatus.
 - Apparatus iPad Replacement: Removed from budget. Replacement is scheduled to be done in 2023.

Civil Defense:

- **2023:**
 - Siren: The goal is to get a siren replaced every 5-year years. A siren was updated in 2021. However due to the condition of the current sirens, another one needs to be replaced in 2023 and we will work towards the 5-year replacement cycle.

Parks:

- **2023:**

- Buster Park Gazebo: \$7,000 was budgeted in 2021 for the gazebo, but prices were too high, and a gazebo could not be built for that price. This item is not a new item perse in the budget for 2023, rather a price adjustment from the 2021 budget. Net effect to plan is \$18,000.

Engineering:

- **2024:**

- Street Scan Implementation: At the February 7, 2022, Council meeting, the Council approved the 5-year street capital improvement plan removing the street scan software until 2024. Staff removed it from the 5-year street capital improvement plan to the Capital Equipment and Facility Plan as it seems to be a better fit here than the infrastructure plan.

30-YEAR PLANS – WORKING FUNDS – EXCLUDING FIRE CAPTIAL:

There is \$100,000 included in 2032 for an updated facilities report. The current facility plan takes us through 2031. The current 30-year plan, at this time, is funded without the issuance of debt.

The Enterprise Funds – Sanitary, Storm, and Electric and Wastewater 30-year plan information is not included as the capital for these operations are funded by rates. The 5-year information for Sanitary and Storm is included in the 2023-2027 comparison and BPU presents their 5-year capital plan in December with the operating budget.

30-YEAR PLANS – FIRE EQUIPMENT:

Since the Fire Advisory Board (FAB) members contribute to capital as part of the cost that is allocated to each of the entities, and the FAB make recommendations to the Council on potential capital purchases, Staff tracks the fire equipment separately for administrative ease only. The City has issued debt to pay for capital in the past with the FAB members picking up a portion of the debt service. The current 30-year plan, at this time, is funded without the issuance of debt.

NEXT STEP:

Staff is looking for Council's input on the capital plan in particular for year 2023. The next step in the budget process would be to vet the estimates of the 2023 capital items.

As noted, the Council adopted the 5-year street capital improvement plan at the February 7, 2022, Council meeting. Staff will use this plan when prepared the amount needed for the debt levy.

2023-2027 Budget Detail and Comparison

	2023		2024		2025		2026		2027	
	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan
Facilities										
City Hall Bathrooms	118,000	150,000								
Street Garage- Exterior and Lot (Study)							637,000	637,000		
Library - Exterior/Mechanical (Study)					426,000	426,000				
Police Station - Exterior Improvements (Study)			450,000	450,000						
Police Station - Interior/Mechanical (Study)									207,000	207,000
Police Station - HVAC (added fall 2021)			250,000	250,000						
Demo of Lum Park Offices	15,000	15,000								
Lum Park - Pavilions	40,000	60,000								
Lum Park - Restrooms/Showers			75,000	75,000						
Lum Park - Picnic Shelters					30,000	30,000				
Jaycees - Concession/Warming										
House/Restroom	75,000	150,000								
Jaycees - Pavilion	20,000	-								
Memorial - Concession/Lockers/Restrooms	75,000	150,000								
Memorial - Shelter	20,000	30,000								
Crack Sealing							1,111	1,111		
City Hall - General										
Office Furniture	10,000	10,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Welcome Signs	5,000	-								
Generator (added fall 2021)	85,000	100,000								
Administration										
Scanner	3,600	3,600	2,000	2,000	2,000	2,000	3,600	3,600	2,000	2,000
Wage Study (added fall 2021)	45,000	45,000								
IT/GIS										
Computers - City Wide							80,000	80,000		
Monitors - City Wide							10,000	10,000		
Server Replacement	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
UPS (Battery Backup)	5,000	5,000								
Firewall/Router			20,000	20,000						
Network Switches			-	30,000	20,000	-				
Laptops					23,900	23,900				
Phone System	-	60,000			80,000	20,000				
Cell phones			15,000	-					15,000	5,000
Council Audio/Visual							30,000	30,000		
Software - Finance/Permit - to Cloud			-	50,000						
Software - Document Imaging - to Cloud			-	30,000	50,000	-				
ID Card Printer			3,000	-			-	3,000		
Security Cameras	-	15,000								
Door Control Access	-	20,000								
Police										
Leased Squad Car Build Ups	86,000	86,000	106,500	106,500	63,000	81,500	100,000	100,000	76,000	89,000
Firearm Replacement					20,000	-				
Officer Furniture	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000
Squad Room Reconfiguration	50,000	60,000								

2023-2027 Budget Detail and Comparison

	2023		2024		2025		2026		2027	
	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan
Fire										
Tender					350,000	385,000				
Rescue Apparatus			-	400,000			350,000	-		
Purchase of Squad 1	35,000	35,000								
Build up of leased Car 1	10,000	10,000								
Build up of leased Car 2							6,000	6,000		
SCBA Fill Station									75,000	75,000
Apparatus iPad Replacement	3,000	3,000	3,000	-						
Radios and Pagers	15,000	15,000	15,000	15,000	20,000	20,000	15,000	15,000		
Thermal Camera					12,000				20,000	20,000
Civil Defense										
Siren	-	25,000			25,000	25,000				
Community Development										
Comprehensive Plan			25,000	25,000						
Scanner	3,000	3,000					3,000	3,000		
Leased Vehicle (3 vehicles Total)	x	x			x	x			x	x
Parks										
Lease - 1/2 ton Extended Cab Truck	x	x	x	x						
Lease - 3/4 ton Regular Cab Truck	x	x								
Lease - 1 ton Regular Cab Truck			x	x						
Equinox					x					
Van									x	x
Groomer									15,000	15,000
Snowblower					85,000	85,000				
Walk behind snow blower	4,000	4,000							4,000	4,000
Walk Behind Mower									1,000	1,000
Mower	22,000	25,000					27,000	27,000		
Sod Cutter	5,000	5,000								
Welder									3,000	3,000
Satellite Lifter			15,000	15,000						
Tree Replacement	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Picnic Table/Grilling Station/Trash Can										
Replacement	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Park Weed and Feed Program	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Bench Installation Program	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Park ADA Upgrades	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
Park Sign Replacement	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Security Cameras	6,500	8,000	6,500	8,000	6,500	8,000	6,500	8,000	6,500	8,000
Bane - Playground			80,000	80,000						
Bane - Scoreboard							6,000	6,000		
Buffalo Hills - Parking Lot Surfacing	250,000	250,000								
Buffalo Hills - Swing set			5,000	5,000						
Buffalo Hills - Playground							80,000	80,000		
Buster Park - Gazebo	-	25,000								
Gregory - Fountain									250,000	250,000
Jaycees - Scoreboard					11,000	11,000				
Kiwanis - Playground							80,000	80,000		

2023-2027 Budget Detail and Comparison

Parks (Continued)

Lum - Playground
Lum - Beach Construction
Memorial - Parking Lot Resurfacing
Memorial - Phase II
Mills - Fencing
O'Brien - Playground
O'Brien - Shade Structure
Triangle - Shade Structure

Streets

Tree Replacement
Motor Grader
Plow Truck
Loader/Backhoe Tractor
Broom Attachment & Trailer
1 Ton Pickup Lease Buildup
1/2 Ton Lease Buildup
Dump Truck Lease Buildup
Crew Cab Lease Buildup
Tire Roller
Pressure Washer
Air Compressor

Engineering

Leased 1/2 ton lease buildup
Leased 1/2 ton lease buildup
Robotic Total Station
Data Collector
GPS Receiver
Street Scan Implementation

Enterprise Funds (Sanitary and Storm)

3/4 Ton lease buildup
1 Ton Lease Buildup
Camera with Locator
Gas Monitors

2023		2024		2025		2026		2027	
Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan	Previous Plan	Current Plan
								125,000	125,000
150,000	150,000	100,000	100,000						
		65,000	65,000	75,000	75,000				
		50,000	50,000						
				30,000	30,000				
				10,000	10,000				
10,000	10,000								
25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
325,000	360,000							325,000	325,000
						260,000	270,000		
		125,000	125,000						
				70,000	100,000				
		11,000	11,000					2,500	2,500
						20,000	20,000		
						16,000	16,000		
		20,000	20,000						
		5,000	5,000						
				15,000	15,000				
2,500	2,500							27,000	27,000
2,500	2,500							10,000	10,000
				26,000	28,500				
		-	60,000						
1,639,100	2,035,600	1,595,000	2,145,500	1,598,400	1,523,900	1,879,211	1,543,711	1,312,000	1,316,500
		12,000	12,000						
				25,000	25,000				
				10,000	10,000				
								1,000	1,000
-	-	12,000	12,000	35,000	35,000	-	-	1,000	1,000

City of Brainerd
Capital Plan: **Summary - Working Funds Only - Excludes Fire Capital**
2023-2052 - 30 Years

	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>	<u>2031</u>	<u>2032</u>	<u>2033</u>	<u>2034</u>	<u>2035</u>	<u>2036</u>
Tax Levy: Current	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927
Tax Levy: Add/Sub	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Bonds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other/Grants	117,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Under budget	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sale of Assets	28,300	65,600	33,350	40,600	60,100	67,000	53,100	50,600	54,100	64,100	37,800	97,100	56,600	69,600	66,100
Interest Earnings	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dedicated to Fire Buildings	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000
Revenues	\$ 1,486,227	\$ 1,406,527	\$ 1,374,277	\$ 1,381,527	\$ 1,401,027	\$ 1,407,927	\$ 1,394,027	\$ 1,391,527	\$ 1,395,027	\$ 1,405,027	\$ 1,378,727	\$ 1,438,027	\$ 1,397,527	\$ 1,410,527	\$ 1,407,027
	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vehicles	\$ 76,500	\$ 91,000	\$ 117,500	\$ 81,500	\$ 136,000	\$ 91,500	\$ 68,000	\$ 131,000	\$ 57,000	\$ 113,000	\$ 119,500	\$ 69,000	\$ 118,500	\$ 82,500	\$ 114,500
Equipment	729,000	741,600	488,000	385,400	632,600	563,000	530,000	410,070	830,000	309,000	241,100	521,900	525,070	456,600	512,500
Furniture & Fixtures	5,000	10,000	5,000	5,000	5,000	5,000	5,000	5,000	25,000	5,000	5,000	5,000	5,000	5,000	5,000
Buildings	470,000	580,000	775,000	456,000	637,000	207,000	68,000	77,000	166,000	123,000	100,000	-	-	-	-
Improvements	115,000	550,000	345,000	191,000	112,111	355,000	150,000	310,000	105,000	161,667	105,000	150,000	160,000	105,000	106,111
Expenditures	\$ 1,395,500	\$ 1,972,600	\$ 1,730,500	\$ 1,118,900	\$ 1,522,711	\$ 1,221,500	\$ 821,000	\$ 933,070	\$ 1,183,000	\$ 711,667	\$ 570,600	\$ 745,900	\$ 808,570	\$ 649,100	\$ 738,111
Beginning Cash Balance	\$ 2,558,996	\$ 2,649,723	\$ 2,083,650	\$ 1,727,427	\$ 1,990,054	\$ 1,868,369	\$ 2,054,796	\$ 2,627,823	\$ 3,086,280	\$ 3,298,307	\$ 3,991,668	\$ 4,799,795	\$ 5,491,922	\$ 6,080,879	\$ 6,842,306
Annual Surplus (deficit)	90,727	(566,073)	(356,223)	262,627	(121,684)	186,427	573,027	458,457	212,027	693,360	808,127	692,127	588,957	761,427	668,916
Savings (Water Tower/Riverfront)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Balance	\$ 2,649,723	\$ 2,083,650	\$ 1,727,427	\$ 1,990,054	\$ 1,868,369	\$ 2,054,796	\$ 2,627,823	\$ 3,086,280	\$ 3,298,307	\$ 3,991,668	\$ 4,799,795	\$ 5,491,922	\$ 6,080,879	\$ 6,842,306	\$ 7,511,222
Savings (Water Tower/Riverfront)	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500
Dedicated for Fire Buildings	130,000	195,000	260,000	325,000	390,000	455,000	520,000	585,000	650,000	715,000	780,000	845,000	910,000	975,000	1,040,000
Rollover of Budgeted Items **	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296	370,296
	\$ 1,761,926	\$ 1,130,853	\$ 709,630	\$ 907,257	\$ 720,573	\$ 842,000	\$ 1,350,027	\$ 1,743,484	\$ 1,890,511	\$ 2,518,871	\$ 3,261,998	\$ 3,889,125	\$ 4,413,082	\$ 5,109,509	\$ 5,713,425

** Memorial Park Project, Zoning Code, Street Tree Replacement, payment for parking lots not made yet

City of Brainerd
Capital Improvement Plan: **Fire Equipment**
2023-2052 - 30 Years

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Additional Contribution Beyond Contract	167,000	167,000	205,000	205,000	205,000	205,000	205,000	205,000	275,000	275,000	275,000	275,000	275,000	275,000	275,000
Other - Fire Capital Fund	114,602	120,332	126,349	132,666	139,299	146,264	153,578	161,257	169,319	177,785	186,675	196,008	205,809	216,099	226,904
Bonds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Under budget	98,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Grants and Aids	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sale of Assets	15,000	-	2,500	15,000	-	-	5,000	-	-	15,000	-	-	-	50,000	-
Interest Earnings	3,594	87	1,546	1,029	695	2,801	4,485	5,207	7,492	10,344	7,803	10,790	11,302	14,501	5,242
Revenues	\$ 398,196	\$ 287,419	\$ 335,395	\$ 353,695	\$ 344,995	\$ 354,066	\$ 368,063	\$ 371,464	\$ 451,811	\$ 478,129	\$ 469,478	\$ 481,798	\$ 492,111	\$ 555,600	\$ 507,146
Vehicles	\$ 615,000	\$ 35,000	\$ 400,000	\$ 385,000	\$ -	\$ -	\$ 225,000	\$ -	\$ -	\$ 780,000	\$ -	\$ -	\$ -	\$ 1,900,000	\$ 400,000
Equipment	7,000	28,000	15,000	20,000	21,000	95,000	32,000	20,000	13,000	89,000	10,000	403,000	-	80,000	6,000
Expenditures	\$ 622,000	\$ 63,000	\$ 415,000	\$ 405,000	\$ 21,000	\$ 95,000	\$ 257,000	\$ 20,000	\$ 13,000	\$ 869,000	\$ 10,000	\$ 403,000	\$ -	\$ 1,980,000	\$ 406,000
Beginning Cash Balance	\$ 237,250	\$ 13,446	\$ 237,865	\$ 158,260	\$ 106,955	\$ 430,950	\$ 690,015	\$ 801,078	\$ 1,152,542	\$ 1,591,352	\$ 1,200,482	\$ 1,659,959	\$ 1,738,757	\$ 2,230,868	\$ 806,468
Annual Surplus (deficit)	(223,804)	224,419	(79,605)	(51,305)	323,995	259,066	111,063	351,464	438,811	(390,871)	459,478	78,798	492,111	(1,424,400)	101,146
Cash Balance	\$ 13,446	\$ 237,865	\$ 158,260	\$ 106,955	\$ 430,950	\$ 690,015	\$ 801,078	\$ 1,152,542	\$ 1,591,352	\$ 1,200,482	\$ 1,659,959	\$ 1,738,757	\$ 2,230,868	\$ 806,468	\$ 907,614
Roll over of SCBA Purchase	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Pulse Point (Donations)	12,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600	4,600
Projected Cash Balance	\$ 846	\$ 233,265	\$ 153,660	\$ 102,355	\$ 426,350	\$ 685,415	\$ 796,478	\$ 1,147,942	\$ 1,586,752	\$ 1,195,882	\$ 1,655,359	\$ 1,734,157	\$ 2,226,268	\$ 801,868	\$ 903,014

City of Brainerd
Capital Plan: **Summary - Working Funds Only - Includes Fire Capital**
2023-2052 - 30 Years

	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>	<u>2031</u>	<u>2032</u>	<u>2033</u>	<u>2034</u>	<u>2035</u>	<u>2036</u>
Tax Levy: Current	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927	\$ 1,255,927
Tax Levy: Add/Sub	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Bonds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other/Grants	398,602	287,332	331,349	337,666	344,299	351,264	358,578	366,257	444,319	452,785	461,675	471,008	480,809	491,099	501,904
Under budget	98,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sale of Assets	43,300	65,600	35,850	55,600	60,100	67,000	58,100	50,600	54,100	79,100	37,800	97,100	56,600	119,600	66,100
Interest Earnings	3,594	87	1,546	1,029	695	2,801	4,485	5,207	7,492	10,344	7,803	10,790	11,302	14,501	5,242
Dedicated to Fire Buildings	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000	65,000
Revenues	\$ 1,884,423	\$ 1,693,946	\$ 1,709,672	\$ 1,735,222	\$ 1,746,022	\$ 1,761,993	\$ 1,762,090	\$ 1,762,991	\$ 1,846,838	\$ 1,883,156	\$ 1,848,205	\$ 1,919,825	\$ 1,889,638	\$ 1,966,127	\$ 1,914,173
Vehicles	\$ 691,500	\$ 126,000	\$ 517,500	\$ 466,500	\$ 136,000	\$ 91,500	\$ 293,000	\$ 131,000	\$ 57,000	\$ 893,000	\$ 119,500	\$ 69,000	\$ 118,500	\$ 1,982,500	\$ 514,500
Equipment	736,000	769,600	503,000	405,400	653,600	658,000	562,000	430,070	843,000	398,000	251,100	924,900	525,070	536,600	518,500
Furniture & Fixtures	5,000	10,000	5,000	5,000	5,000	5,000	5,000	5,000	25,000	5,000	5,000	5,000	5,000	5,000	5,000
Buildings	470,000	580,000	775,000	456,000	637,000	207,000	68,000	77,000	166,000	123,000	100,000	-	-	-	-
Improvements	115,000	550,000	345,000	191,000	112,111	355,000	150,000	310,000	105,000	161,667	105,000	150,000	160,000	105,000	106,111
Expenditures	\$ 2,017,500	\$ 2,035,600	\$ 2,145,500	\$ 1,523,900	\$ 1,543,711	\$ 1,316,500	\$ 1,078,000	\$ 953,070	\$ 1,196,000	\$ 1,580,667	\$ 580,600	\$ 1,148,900	\$ 808,570	\$ 2,629,100	\$ 1,144,111
Beginning Cash Balance	\$ 2,796,246	\$ 2,663,169	\$ 2,321,515	\$ 1,885,687	\$ 2,097,009	\$ 2,299,319	\$ 2,744,812	\$ 3,428,902	\$ 4,238,822	\$ 4,889,660	\$ 5,192,149	\$ 6,459,754	\$ 7,230,679	\$ 8,311,747	\$ 7,648,774
Annual Surplus (deficit)	(133,077)	(341,654)	(435,828)	211,322	202,311	445,493	684,090	809,921	650,838	302,489	1,267,605	770,925	1,081,068	(662,973)	770,062
Savings (Water Tower/Riverfront)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash Balance	\$ 2,663,169	\$ 2,321,515	\$ 1,885,687	\$ 2,097,009	\$ 2,299,319	\$ 2,744,812	\$ 3,428,902	\$ 4,238,822	\$ 4,889,660	\$ 5,192,149	\$ 6,459,754	\$ 7,230,679	\$ 8,311,747	\$ 7,648,774	\$ 8,418,836
Savings (Water Tower/Riverfront)	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500	387,500
Dedicated for Fire Buildings	130,000	195,000	260,000	325,000	390,000	455,000	520,000	585,000	650,000	715,000	780,000	845,000	910,000	975,000	1,040,000
Rollover of Budgeted Items **	382,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896	374,896
	\$ 1,762,772	\$ 1,364,119	\$ 863,290	\$ 1,009,612	\$ 1,146,923	\$ 1,527,415	\$ 2,146,505	\$ 2,891,426	\$ 3,477,264	\$ 3,714,753	\$ 4,917,358	\$ 5,623,283	\$ 6,639,350	\$ 5,911,377	\$ 6,616,439

** Memorial Park Project, Zoning Code, Street Tree Replacement, payment for parking lots not made yet



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: April 4, 2022

Title of Item: Authorize Land Purchase Agreement for PID 41361081 & 41361080

☐ 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: Scott Magnuson, Superintendent	Department: Administration
Presenter (Name & Title): Jennifer Bergman, City Administrator	Estimated Time Needed: 5 Minutes
Summary of Issue: The Brainerd Public Utilities (BPU) Commission has recommended purchasing PID 41361081 and 413610080 (Roberts Land). On March 7th, the City Council discussed the purchase of this land in a closed session. The motion made by the Council in open session was "for BPU to negotiate the purchase of the land BPU will acquire PID 41361081 & 41361080; further that grant funds not be used to do so." At the March 29th meeting, the BPU Commission made a motion to accept the purchase agreement for the acquisition of the Robert's property in the amount of \$300,000 pending City Council approval.	
Alternatives, Options, Effects on Others/Comments: Background information is provided in the attached memo.	
Recommended Action/Motion: Authorize the execution of the Purchase Agreement for PID 41361080 & 41361081 pending review by the City Attorney.	
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>	



BRAINERD PUBLIC UTILITIES

8027 Highland Scenic Rd • P.O. Box 373 • Brainerd, Minnesota 56401

Business Office: 218.829.8726 ■ **Repair Service:** 218.829.2193

www.bpu.org

Date: March 4, 2022

To: Brainerd Public Utilities Commission

From: Scott Magnuson

Re: Roberts Gravel Pit

A few years back, we started to look at purchasing the Roberts gravel pit located next to our water plant and well field, reason being for well head protection and possible site for a new well. After a few back and fourths, we could not come to an agreement on price. Our last effort was an offer of \$260,000 which they turned down.

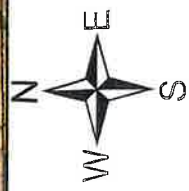
Last fall, I came across a grant possibility through the State. The grant would pay for the appraised value of a lot that could benefit a utilities well head protection plan. In addition to paying the appraised value, the grant would cover restoration costs, to a certain degree, as well as closing costs and other administrative costs.

In talking to the Roberts, they have indicated a price of \$300,000 for the 30 +/- acres they wish to sell. We had an appraisal done, with a value of \$152,000. So we have a difference of \$142,000.

The City has indicated they have some interest in redeveloping the gravel pit. One significant part of the grant is that there can be no development on the land that the grant covers. We would however be allowed to drill a new well and related infrastructure.

If we use the grant money, we will basically have half the cost paid for, but there is no way to develop the land in the future, except for water system infrastructure, and we will have to make sure any restoration we are required to do are kept up to standards, which will be governed by the Crow Wing County soil and water district.

The other option is to buy the land out-right, either with the City if they want to develop part of it, or without the City. If we do this option, we would more than likely spend an additional \$5,000 to knock down the slope for liability reasons, but we would not necessarily have to plant anything on the slope and maintain it.



BRainerd PUBLIC UTILITIES

ROBERTS SAND & GRAVEL PROPERTY

This map is intended for reference purposes only and is not a legally recorded map nor survey. Brainerd Public Utilities shall not be liable for any damages or claims that arise due to accuracy, availability, use, or misuse of the information herein pursuant to MN Statutes 466.03 Subd 21.



Date: 01/27/2017

AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

1. Page 1

2. **MINNESOTA LAW REQUIRES** that early in any relationship, real estate brokers or salespersons discuss with
3. consumers what type of agency representation or relationship they desire.⁽¹⁾ The available options are listed below. This
4. is **not** a contract. **This is an agency disclosure form only. If you desire representation you must enter into a**
5. **written contract, according to state law** (a listing contract or a buyer/tenant representation contract). Until such time
6. as you choose to enter into a written contract for representation, you will be treated as a customer and will not receive
7. any representation from the broker or salesperson. The broker or salesperson will be acting as a Facilitator (see
8. paragraph IV on page two (2)), unless the broker or salesperson is representing another party, as described below.

9. **ACKNOWLEDGMENT: I/We acknowledge that I/we have been presented with the below-described options.**
10. **I/We understand that until I/we have signed a representation contract, I/we am/are not represented by the**
11. **broker/salesperson. I/We understand that written consent is required for a dual agency relationship.**

12. **THIS IS A DISCLOSURE ONLY, NOT A CONTRACT FOR REPRESENTATION.**

13. _____
(Signature) (Date) (Signature) (Date)

14. I. **Seller's/Landlord's Broker:** A broker who lists a property, or a salesperson who is licensed to the listing broker,
15. represents the Seller/Landlord and acts on behalf of the Seller/Landlord. A Seller's/Landlord's broker owes to
16. the Seller/Landlord the fiduciary duties described on page two (2).⁽²⁾ The broker must also disclose to the Buyer
17. material facts as defined in MN Statute 82.68, Subd. 3, of which the broker is aware that could adversely and
18. significantly affect the Buyer's use or enjoyment of the property. (MN Statute 82.68, Subd. 3 does not apply to
19. rental/lease transactions.) If a broker or salesperson working with a Buyer/Tenant as a customer is representing the
20. Seller/Landlord, he or she must act in the Seller's/Landlord's best interest and must tell the Seller/Landlord any
21. information disclosed to him or her, except confidential information acquired in a facilitator relationship (see paragraph
22. IV on page two (2)). In that case, the Buyer/Tenant will not be represented and will not receive advice and counsel
23. from the broker or salesperson.

24. II. **Buyer's/Tenant's Broker:** A Buyer/Tenant may enter into an agreement for the broker or salesperson to represent
25. and act on behalf of the Buyer/Tenant. The broker may represent the Buyer/Tenant only, and not the Seller/Landlord,
26. even if he or she is being paid in whole or in part by the Seller/Landlord. A Buyer's/Tenant's broker owes to the
27. Buyer/Tenant the fiduciary duties described on page two (2).⁽²⁾ The broker must disclose to the Buyer material facts
28. as defined in MN Statute 82.68, Subd. 3, of which the broker is aware that could adversely and significantly affect
29. the Buyer's use or enjoyment of the property. (MN Statute 82.68, Subd. 3 does not apply to rental/lease transactions.)
30. If a broker or salesperson working with a Seller/Landlord as a customer is representing the Buyer/Tenant, he or
31. she must act in the Buyer's/Tenant's best interest and must tell the Buyer/Tenant any information disclosed to him
32. or her, except confidential information acquired in a facilitator relationship (see paragraph IV on page two (2)). In
33. that case, the Seller/Landlord will not be represented and will not receive advice and counsel from the broker or
34. salesperson.

35. III. **Dual Agency - Broker Representing both Seller/Landlord and Buyer/Tenant:** Dual agency occurs when one
36. broker or salesperson represents both parties to a transaction, or when two salespersons licensed to the same
37. broker each represent a party to the transaction. Dual agency requires the informed consent of all parties, and
38. means that the broker and salesperson owe the same duties to the Seller/Landlord and the Buyer/Tenant. This
39. role limits the level of representation the broker and salesperson can provide, and prohibits them from acting
40. exclusively for either party. In a dual agency, confidential information about price, terms and motivation for pursuing
41. a transaction will be kept confidential unless one party instructs the broker or salesperson in writing to disclose
42. specific information about him or her. Other information will be shared. Dual agents may not advocate for one party
43. to the detriment of the other.⁽³⁾

44. Within the limitations described above, dual agents owe to both Seller/Landlord and Buyer/Tenant the fiduciary
45. duties described below.⁽²⁾ Dual agents must disclose to Buyers material facts as defined in MN Statute 82.68, Subd.
46. 3, of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the
47. property. (MN Statute 82.68, Subd. 3 does not apply to rental/lease transactions.)

**AGENCY RELATIONSHIPS IN
REAL ESTATE TRANSACTIONS**

48. Page 2

49. IV. **Facilitator:** A broker or salesperson who performs services for a Buyer/Tenant, a Seller/Landlord or both but
50. does not represent either in a fiduciary capacity as a Buyer's/Tenant's Broker, Seller's/Landlord's Broker or Dual
51. Agent. **THE FACILITATOR BROKER OR SALESPERSON DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY**
52. **DUTIES LISTED BELOW, EXCEPT CONFIDENTIALITY, UNLESS THOSE DUTIES ARE INCLUDED IN A**
53. **WRITTEN FACILITATOR SERVICES AGREEMENT.** The facilitator broker or salesperson owes the duty of
54. confidentiality to the party but owes no other duty to the party except those duties required by law or contained in
55. a written facilitator services agreement, if any. In the event a facilitator broker or salesperson working with a Buyer/
56. Tenant shows a property listed by the facilitator broker or salesperson, then the facilitator broker or salesperson
57. must act as a Seller's/Landlord's Broker (see paragraph I on page one (1)). In the event a facilitator broker or
58. salesperson, working with a Seller/Landlord, accepts a showing of the property by a Buyer/Tenant being represented
59. by the facilitator broker or salesperson, then the facilitator broker or salesperson must act as a Buyer's/Tenant's
60. Broker (see paragraph II on page one (1)).

61. ⁽¹⁾ This disclosure is required by law in any transaction involving property occupied or intended to be occupied by
62. one to four families as their residence.

63. ⁽²⁾ The fiduciary duties mentioned above are listed below and have the following meanings:

64. Loyalty - broker/salesperson will act only in client(s)' best interest.

65. Obedience - broker/salesperson will carry out all client(s)' lawful instructions.

66. Disclosure - broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge
67. which might reasonably affect the client(s)' use and enjoyment of the property.

68. Confidentiality - broker/salesperson will keep client(s)' confidences unless required by law to disclose specific
69. information (such as disclosure of material facts to Buyers).

70. Reasonable Care - broker/salesperson will use reasonable care in performing duties as an agent.

71. Accounting - broker/salesperson will account to client(s) for all client(s)' money and property received as agent.

72. ⁽³⁾ If Seller(s)/Landlord(s) elect(s) not to agree to a dual agency relationship, Seller(s)/Landlord(s) may give up the
73. opportunity to sell/lease the property to Buyer(s)/Tenant(s) represented by the broker/salesperson. If Buyer(s)/
74. Tenant(s) elect(s) not to agree to a dual agency relationship, Buyer(s)/Tenant(s) may give up the opportunity to
75. purchase/lease properties listed by the broker.

76. **NOTICE REGARDING PREDATORY OFFENDER INFORMATION:** Information regarding the predatory offender
77. registry and persons registered with the predatory offender registry under MN Statute 243.166 may be
78. obtained by contacting the local law enforcement offices in the community where the property is located,
79. or the Minnesota Department of Corrections at (651) 361-7200, or from the Department of Corrections Web site at
80. www.corr.state.mn.us.

MN:AGCYDISC-2 (8/19)

CONTRACT FOR EXCLUSIVE RIGHT TO REPRESENT BUYER

1. Date March 22, 2022

2. Page 1

3. City of Brainerd ("Buyer") gives

4. Edina Realty, Inc., Buyer's broker
(Real Estate Company Name)

5. ("Broker"), the exclusive right to locate and/or to assist in negotiations for the purchase, exchange or option to
6. purchase ("Purchase") property at a price and with terms acceptable to Buyer. This Agreement starts on

7. March 22nd, 20 22, and ends at 11:59 p.m. on September 22nd, 20 22.

8. This Agreement may be canceled only by written mutual agreement of the parties. In the event Buyer purchases a property,
9. Broker shall submit information about the transaction to the Regional Multiple Listing Service (RMLS) including price
10. and terms; Broker is authorized to sign on Buyer's behalf on required RMLS forms pursuant to the transaction.

11. **BROKER'S OBLIGATION:** Broker shall:

12. 1. make a reasonable effort to locate property acceptable to Buyer,
13. 2. use professional knowledge and skills to assist in negotiations for the Purchase of property,
14. 3. assist Buyer throughout the transaction, subject to any limitations imposed by law or dual agency,
15. 4. act in Buyer's best interest at all times.

16. **BUYER'S OBLIGATION:** Buyer shall:

17. 1. work exclusively with Broker for the Purchase of property,
18. 2. provide Broker with accurate and relevant personal financial information to determine Buyer's ability to Purchase
19. property,
20. 3. cooperate with Broker in finding a property to Purchase. After a purchase agreement has been accepted by
21. seller, Buyer is legally obligated to Purchase the property. If Buyer refuses to close the Purchase for any reason
22. other than the failure of seller to perform, subject to relevant contingencies, Buyer shall pay Broker all
23. compensation due under this Agreement.

24. **NOTICE: THE COMPENSATION FOR THE PURCHASE, LEASE, RENTAL OR MANAGEMENT OF REAL**
25. **PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND THE BROKER'S**
26. **CLIENT.**

27. **COMPENSATION:**

28. *(Fill in all blanks.)*

29. Buyer agrees to compensate Broker if Buyer or any other person acting on Buyer's behalf agrees to Purchase any
30. property during the term of this Agreement. Buyer agrees to compensate Broker a broker's administrative commission*
31. of \$ 0.00 upon closing and

32. 1. Buyer shall pay Broker a retainer fee of \$ 0.00 when Buyer signs this Agreement. Broker
33. shall keep this fee if Buyer does not Purchase a property before the end of the Agreement or purchases or
34. agrees to purchase a property before the end of this Agreement without Broker's services. If Buyer has agreed to
35. pay Broker compensation as indicated below, the retainer fee paid shall be credited to Buyer towards Buyer's
36. obligation to pay said compensation. If Broker accepts compensation from a Seller or Listing Broker, the retainer
37. fee paid herein shall be returned to Buyer.

38. 2. Buyer shall pay Broker a brokerage commission of 0 percent (%) of the Purchase price of the property or
39. \$ 1,500.00, whichever is greater, when Buyer closes the Purchase, if:

40. A: Buyer Purchases or agrees to Purchase a property before the end of this Agreement, even if Buyer does not
41. use Broker's services; or

42. B: within 180 days after the expiration of this Contract, Buyer Purchases property which either Broker or licensee
43. representing Buyer has shown or exhibited to Buyer, or specifically brought to the attention of Buyer, before the
44. expiration of this Contract, as long as Broker has identified this property on a written list Broker gives to Buyer within 72
45. hours after the expiration of the Contract.

46. Broker is authorized by Buyer to negotiate and receive compensation or fee paid by the Listing Broker or seller.
47. The normal compensation received by the Broker is that amount published in the Multiple Listing Service (MLS).

48. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER AND BROKER.**
49. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**

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CONTRACT FOR EXCLUSIVE RIGHT TO REPRESENT BUYER

50. Page 2

51. This amount may vary if you purchase a home also listed by the Broker. Since the compensation may vary depending
52. on the property, if you have a question regarding the compensation the Broker shall receive on the specific property please
53. ask your Agent. Any compensation or fee accepted by Broker from the Seller or Listing Broker shall be a credit toward
54. any obligation of Buyer to pay the compensation, except for the Broker's administrative commission of \$ 0.00 as agreed above.

55. Buyer shall not be obligated to pay a fee to Broker If, upon expiration of this Agreement, Buyer has entered into
56. another valid Contract for Exclusive or Nonexclusive Right to Represent Buyer, pursuant to which Buyer is obligated
57. to pay compensation to another broker for Purchase of real property.

58. **CAUTION: BUYER'S ACTIONS IN LOCATING A PROPERTY MAY AFFECT PAYMENT OF COMPENSATION BY**
59. **SELLER(S) OR SELLER'S BROKER AND MAY THEREFORE OBLIGATE BUYER TO PAY ALL OR PART OF**
60. **THE COMPENSATION IN CASH AT CLOSING. FOR EXAMPLE: THE ACT OF GOING THROUGH AN**
61. **OPEN HOUSE UNACCOMPANIED BY YOUR BROKER OR BROKER'S SALESPERSON OR SIGNING A**
62. **PURCHASE AGREEMENT THROUGH ANOTHER BROKER OR WITH OWNER (FOR SALE BY OWNER)**
63. **MAY REQUIRE YOUR PAYMENT OF THE FULL COMPENSATION TO YOUR BROKER.**

64. **OTHER POTENTIAL BUYERS:** Broker may represent or work with other potential buyers for the same property before,
65. during and after the expiration of this Agreement. Other potential buyers may consider, make offers or Purchase through
66. Broker the same or similar properties as Buyer is seeking to acquire.

67. **CHANGE IN REPRESENTATION:** In the event the Buyer desires to inspect and/or purchase a property that is
68. listed with Edina Realty, the Agent may represent both the Buyer and the Seller. Any confidential
69. information previously or henceforth communicated to Edina Realty or the Agent with regard to price, terms
70. or motivation shall remain confidential unless Buyer authorizes in writing the disclosure of this information.

71. **PREVIOUS AGENCY RELATIONSHIPS:** Broker and Agent may have had a previous agency relationship with
72. a seller of a property Buyer is interested in Purchasing. Buyer acknowledges that Buyer's Broker or Agent is
73. legally required to keep information regarding the ultimate price and terms the seller would accept and the motivation
74. for selling confidential, if known.

75. **PRIVATE INSPECTION/WARRANTY:** Broker recommends to the Buyer the use of a private home inspection to satisfy
76. himself/herself as to the physical condition of the property. Additionally, home warranties, which can help protect you
77. against the cost of unanticipated after purchase repairs, are available for some properties and are recommended. The broker
78. recommends a home warranty; your sales associate can give you full details.

79. **ADDITIONAL COSTS:** Buyer acknowledges that the Buyer may be required to pay certain closing costs, which may
80. effectively increase the cash outlay at closing.

81. **OTHER**

82. This Agreement serves for the Purchase of PID#s 41361081 and 41361080 from Roberts Sand &
83. Gravel ONLY.
84.

85. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER AND BROKER.**
86. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**

88. **AGENCY REPRESENTATION:** If the Buyer(s) chooses to purchase a property listed by Broker, a dual agency will be
89. created. This means that Broker will represent both the Buyer(s) and the Seller(s), and owe the same duties to the
90. Seller(s) that Broker owes to the Buyer(s). This conflict of interest will prohibit Broker from advocating exclusively
91. on the Buyer(s) behalf. Dual agency will limit the level of representation Broker can provide. If a dual agency should
92. arise, the Buyer(s) will need to agree that confidential information about price, terms and motivation will still be kept
93. confidential unless the Buyer(s) instructs Broker in writing to disclose specific information about the Buyer(s). All
94. other information will be shared. Broker cannot act as a dual agent unless both the Buyer(s) and the Seller(s) agree
95. to it. By agreeing to a possible dual agency, the Buyer(s) will be giving up the right to exclusive representation in an in-house
96. transaction. However, if the Buyer(s) should decide not to agree to a possible dual agency, and the Buyer(s) wants
97. Broker to represent the Buyer(s), the Buyer(s) may give up the opportunity to purchase the properties listed by Broker.

98. Buyer's Instructions to Broker:

99. ☒ Buyer(s) will agree to a dual agency representation and will consider properties listed by Broker.
100. ☐ Buyer(s) will not agree to a dual agency representation and will not consider properties listed by Broker.

101. Real Estate Company Name: Edina Realty, Inc.

102. Buyer: _____
City of Brainerd

103. By: _____
(Salesperson) Brad Wadsten

104. Date: _____

105. **ANTI-FRAUD DISCLOSURE:** Edina Realty and its agents will never provide you with wiring instructions via email
106. without verifying the information in person or over the phone. EMAILS ATTEMPTING TO INDUCE FRAUDULENT
107. WIRE TRANSFERS ARE COMMON AND MAY APPEAR TO COME FROM A TRUSTED SOURCE. If you receive
108. an email directing you to transfer funds via wire, EVEN IF THAT ELECTRONIC COMMUNICATION APPEARS TO
109. BE FROM Edina Realty or its agents, do not respond until you have verified it in one of the following ways:

110. • Call your agent if the email appears to be from Edina Realty.
111. • To verify instructions related to wiring funds to anyone other than Edina Realty, call the company or agent
112. using a phone number you look up yourself, rather than a phone number in the email.

113. **NOTICE REGARDING PREDATORY OFFENDER INFORMATION:** Information regarding the predatory
114. offender registry and persons registered with the predatory offender registry under MN Statute 243.166 may
115. be obtained by contacting the local law enforcement offices in the community where the property is located
116. or the Minnesota Department of Corrections at (651) 361-7200, or from the Department of Corrections web site at
117. www.corr.state.mn.us.

118. *The Broker's Administrative Commission consists of a flat fee paid to the Broker in addition to the percentage
119. commission. The Broker's Administrative Commission is not designated for any specific service, but for all the
120. services provided by Broker.

121. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER AND BROKER.**
122. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**

124. **ARBITRATION:** Any controversy or claim between the parties to this Contract for Exclusive Right to Represent Buyer, its
125. interpretation, enforcement or breach, including but not limited to claims arising from tort (which includes claims of
126. fraud and fraud in the Inducement), shall be settled by binding arbitration administered by and under the rules of
127. National Center for Dispute Settlement (NCDS). While either party shall have all the rights and benefits of arbitration, both
128. parties are giving up the right to litigate such claims and disputes in a court or jury trial. The results, determinations,
129. findings, judgments and/or awards rendered through such arbitration shall be final and binding on the parties
130. hereto and may be specifically enforced by legal proceedings. Judgment on the award may be entered into any court
131. having jurisdiction. Neither party shall be entitled to join or consolidate disputes by or against others in any arbitration,
132. or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the
133. interest of the general public or in any private attorney general capacity.

134. **NETWORK ONE:** Edina Realty's Network One is an application that "matches" buyers to properties that are not
135. yet listed on the open market. Broker does not provide information that identifies the buyer. Buyer agrees that
136. Broker can enter into the Network One Buyer's general price range and desired property characteristics.

137. **OFFERS:** Buyer understands that sellers or sellers' representatives may not treat the existence, terms, or
138. conditions of offers as confidential unless confidentiality is required by law regulation, or by any confidentiality
139. agreement between the parties

140. **CONSENT FOR COMMUNICATION:** Unless I have opted out under the procedure below, I give Edina Realty
141. and Edina Realty's affiliated companies my express permission to contact me by telephone, mail, fax, e-mail or
142. other means of communication, even if the telephone number is listed on a state, federal or company-specific
143. do-not-call list.

144. **FEDERAL NOTICE.** The Edina Realty family of companies is providing this notice. Edina Realty has brokerage,
145. title, mortgage and insurance affiliates that are committed to the highest quality of service. If you choose, however,
146. you may limit the Edina Realty companies from marketing their products or services to you based on your
147. personal
148. information that they receive from other Edina Realty companies, such as your contact and transaction information.
149. (Rest assured, we do not share your financial information with anyone.) Your choice to limit the marketing offers
150. from Edina Realty companies will apply until you tell us to change your choice.

150. To limit marketing offers, contact us by telephone toll-free at 1-877-270-1289.

151. **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** Section 1445 of the Internal Revenue
152. Code provides that a transferee ("Buyer") of a United States real property interest must withhold tax from the
153. transferor ("Seller") if the Seller is a foreign person and no exceptions from FIRPTA withholding apply. A Buyer is
154. personally liable for the full amount of FIRPTA withholding tax required to be withheld unless the Seller furnishes
155. Buyer with specific documentation ensuring Buyer is exempt from the withholding requirements as prescribed
156. under 26 USC §1445. Due to the complexity and potential risks of failing to comply with FIRPTA, including the
157. Buyer's responsibility for withholding the applicable tax, Buyer should **seek appropriate legal and tax advice**
158. **regarding FIRPTA compliance, as Broker will be unable to assure Buyer that the transaction is exempt**
159. **from the withholding requirements.**

160. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER AND BROKER.**
161. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**

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163. **ENTIRE AGREEMENT:** This contract and any addenda or amendments signed by the parties shall constitute the
164. entire agreement between Buyer and Broker. Any other written or oral communication between Buyer and Broker,
165. including, but not limited to, e-mails, text messages, or other electronic communications are not part of this
166. Contract. This Contract can be modified or canceled only in writing signed by Buyer and Broker or by operation of
167. law. All monetary sums are deemed to be United States currency for purposes of this Contract.

168. **ELECTRONIC SIGNATURES:** The parties agree the electronic signature of any party on any document related to
169. this transaction constitute valid, binding signatures.

170. **Edina Realty, Inc.**
(Real Estate Company Name)

(Buyer) City of Brainerd (Date)

171. (By) Brad Wadsten (Date)

(Buyer) (Date)

172. 15354 Bellwood Dr Suite 100 Baxter MN 56425-
(Address)

(Address)

173. bradwadsten@edinarealty.com
(E-mail Address)

(E-mail Address)

174. 218-821-2721
(Phone)

(Phone)

175. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER AND BROKER.**
176. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**



DON'T LET SCAM ARTISTS STEAL YOUR MONEY!

Because you are going to be involved in a real estate transaction where money is changing hands, **you are a potential target for cyber-criminals.** These sophisticated criminals could:

- **Try to hack into your email account or the email of other persons involved in your transaction and direct you to send a wire to the hacker's account.**
- **They can even send you emails that appear to be from your agent, your closer or another trusted source!**



WHEN YOU ARE USING EDINA REALTY TITLE TO CLOSE YOUR SALE, WE WILL NEVER ASK YOU TO WIRE MONEY.

Edina Realty Title will only request a cashier's check. If you receive wiring instructions, even if it appears legitimate, do not send money to that account.

Closing with another company? Always contact your closer directly before wiring any money. To ensure it's the closing company:

- **Do not use a phone number or other contact information from an email.**
- **Use a business number from another source (such as the closing company's website) to make sure you are actually talking to your closer and not someone intent on stealing your money.**

I acknowledge the above information:

(Buyer) City of Brainerd

(Date)

(Buyer)

(Date)

Edina Realty

a Berkshire Hathaway affiliate

 **TRANSACTIONS**
TransactionDesk Edition



Affiliated Business Arrangement Disclosure Statement

To: City of Brainerd Property: 1702 Pennsylvania Ave
From: Brad Wadsten Date: _____

This is to give you notice that Edina Realty, Inc., HomeServices Relocation, LLC, Prosperity Home Mortgage, LLC doing business as Edina Realty Mortgage ("Edina Realty Mortgage"), HomeServices Insurance, Inc. ("HSI") doing business as Edina Realty Insurance Agency ("Edina Realty Insurance Agency"), Edina Realty Title, Inc., and Prosperity First Title, LLC are part of a family of companies (the "Affiliated Companies"), and each may refer to you the services of another. Edina Realty, Inc., Edina Realty Mortgage, HomeServices Insurance, Inc., Edina Realty Title, Inc. and Prosperity First Title, LLC are each wholly owned either directly or indirectly by HomeServices of America, Inc. ("HSoA"). Because of these relationships, the referral of a customer (including you) by any of the Affiliated Companies to another may provide the referring company, its affiliates, and/or their employees with a financial or other benefit.

In addition, while Edina Realty, Inc. is not affiliated with American Home Shield Corporation doing business as HSA Home Warranty ("HSA Home Warranty"), provider of Edina Realty Home Warranties, it does advertise them for a fixed service fee.

Set forth below is the estimated charge or range of charges for each of the services listed. You are NOT required to use any of these service providers as a condition of the sale of the subject property or to obtain access to any settlement service.

THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

OR THESE SERVICES.

Service Provider	Service Provided	Charge or Range of Charges	
Edina Realty, Inc.	Broker's Commission	\$499 plus 7% of the sales price	
HomeServices Relocation, LLC	Relocation Services	Fees paid by real estate broker	
Edina Realty Mortgage	Loan Origination Fee	\$0 - \$1,199 (1% of loan amount on some bond products)	
	Appraisal	\$450 - \$1,102	
	Third Party Fees	\$33 - \$215 (credit report, tax service fee, flood cert fee)	
	Technology Fee	\$94 - \$102	
Edina Realty Title, Inc.*		MN	WI
	Lender's Policy	\$100 if simultaneously issued with Owner's Policy; if not, \$3.00 - \$1.50 per \$1,000 of sales price	\$375
	Owner's Policy	\$3.58 - \$1.93 per \$1,000 of sales price.	\$475 plus \$3.00 - \$0.50 per \$1,000 of sales price.
	ARM/Balloon Endorsement	\$50 - \$125 (applies to conventional, FHA and DVA Arms and all balloon loans)	\$125 - \$250 (applies to conventional, FHA and DVA Arms and all balloon loans)
	Title Exam Fee	\$680 - \$735	
	Settlement Services Fee	\$325 (buyer); \$425 (seller). An additional fee of \$160 is charged if a second mortgage is closed simultaneously with a first mortgage (or \$75 for a down payment assistance loan); Non-traditional seller (REO, short sale, for sale by owner) fee ranges from \$535-\$1,010.	
Edina Realty Insurance Agency**	Homeowner's Insurance	Annual premium of \$5.00 - \$12.00 per \$1,000 of property replacement value, depending on product and associated risk assessments (e.g., age of home, credit score, past claims of the insured, etc.)	
HSA Home Warranty, provider of Edina Realty Home Warranty	Home Warranty	\$475 - \$2,262, depending on property and coverage options	

ACKNOWLEDGEMENT: I/we have read this disclosure form and understand that the Affiliated Companies may refer me/us to purchase the above-described settlement service(s) from one another and that any such referrals may provide the referring company, its affiliates, and/or their employees with a financial or other benefit.

Signature

(Date)

Signature

(Date)

* Prosperity First Title, LLC provides the same services as Edina Realty Title, Inc. The services provided by both companies fall in the range of fees described above; and a referral to either company may provide the referring company, its affiliates, and/or their employees with a financial or other benefit.

** In rare cases, your insurance policy may instead be issued by Trident Insurance Agency Company LP or Long & Foster Insurance Agency, Inc., affiliates of HSI, or under another of its trade names. HSI's trade names include: Edina Realty Insurance Agency, Home Team Insurance, HomeServices Insurance Agency, InsuranceSouth, Long Insurance Group, PCG Agencies, PCG Insurance Agency and ReeceNichols Insurance.



a Berkshire Hathaway affiliate

PURCHASE AGREEMENT: VACANT LAND (RESIDENTIAL)

This form approved by the Minnesota Association of REALTORS®,
which disclaims any liability arising out of use or misuse of this form.
© 2021 Minnesota Association of REALTORS®, Minnetonka, MN

1. Date 03/22/2022

2. Page 1

3. BUYER(S): City of Brainerd

4. _____

5. Buyer's earnest money in the amount of Five Thousand

6. _____ Dollars (\$ 5,000.00)

7. shall be delivered to listing broker, or, if checked, to ☐ _____ no later than two (2) Business
("Earnest Money Holder")

8. Days after Final Acceptance Date. Buyer and Seller agree that earnest money shall be deposited in the trust account
9. of Earnest Money Holder as specified above within three (3) Business Days of receipt of the earnest money or Final
10. Acceptance Date, whichever is later.

11. Said earnest money is part payment for the purchase of the property located at

12. Street Address: 1702 Pennsylvania Ave

13. City of Brainerd, County of Crow Wing State of Minnesota,

14. Zip Code 56401, legally described as
PID#s 060362300F00889 & 060362300G00009 Legals to Govern

15. _____

16. _____

17. including all fixtures, if any, **AND** including the following personal property, if any, which shall be transferred with no
18. additional monetary value, and free and clear of all liens and encumbrances:

19. _____

20. _____

21. _____ (collectively the "Property").

22. Notwithstanding the foregoing, the following item(s) are excluded from the purchase:

23. _____

24. **PURCHASE PRICE:**

25. Seller has agreed to sell the Property to Buyer for the sum of (\$ 300,000.00)

26. Three Hundred Thousand

27. _____ Dollars,

28. which Buyer agrees to pay in the following manner:

29. 1. 100 percent (%) of the sale price in **CASH**, or more in Buyer's sole discretion, including earnest money;

30. 2. 0 percent (%) of the sale price in **MORTGAGE FINANCING**. (See following Mortgage Financing
31. section.)

32. 3. _____ percent (%) of the sale price by **ASSUMING** Seller's current mortgage. (See attached Addendum to
33. Purchase Agreement: Assumption Financing.)

34. 4. _____ percent (%) of the sale price by **CONTRACT FOR DEED**. (See attached Addendum to Purchase
35. Agreement: Contract for Deed Financing.)

36. **CLOSING DATE:**

37. The date of closing shall be on/before June 24th 2022.

PURCHASE AGREEMENT: VACANT LAND (RESIDENTIAL)

38. Page 2 Date 03/22/2022

39. Property located at 1702 Pennsylvania Ave Brainerd MN 56401

MORTGAGE FINANCING:

40. This Purchase Agreement ☐ IS ☒ IS NOT subject to the mortgage financing provisions below. If IS, complete the
41. —(Check one.)—
42. **MORTGAGE FINANCING** section below. If IS NOT, proceed to the **SELLER'S CONTRIBUTIONS TO BUYER'S**
43. **COSTS** section.

44. Such mortgage financing shall be: (Check one.)

45. ☐ **FIRST MORTGAGE only** ☐ **FIRST MORTGAGE AND SUBORDINATE FINANCING.**

46. Financing ☐ **DOES** ☐ **DOES NOT** require approval of a grant, bond program, or other loan assistance program. If
47. —(Check one.)—

47. "DOES," please specify: _____

48. Buyer shall apply for and secure, at Buyer's expense, a: (Check all that apply.)

49. ☐ **CONVENTIONAL OR PRIVATELY INSURED CONVENTIONAL**

50. ☐ **DEPARTMENT OF VETERANS' AFFAIRS ("DVA") GUARANTEED**

51. ☐ **FEDERAL HOUSING ADMINISTRATION ("FHA") INSURED**

52. ☐ **UNITED STATES DEPARTMENT OF AGRICULTURE ("USDA") RURAL DEVELOPMENT**

53. ☐ **OTHER** _____

54. mortgage in the amount stated in this Purchase Agreement, amortized over a period of not more than

55. _____ years, with an initial interest rate at no more than _____ percent (%) per annum. The mortgage

56. application **IS TO BE MADE WITHIN FIVE (5) BUSINESS DAYS** after the Final Acceptance Date. Buyer agrees to

57. use best efforts to secure a commitment for such financing and to execute all documents required to consummate

58. said financing.

59. **MORTGAGE FINANCING CONTINGENCY:** This Purchase Agreement is contingent upon the following and applies
60. to the first mortgage and any subordinate financing. (Check one.)

61. ☐ If Buyer cannot secure the financing specified in this Purchase Agreement, and this Purchase Agreement does not
62. close on the closing date specified, this Purchase Agreement is canceled. Buyer and Seller shall immediately
63. sign a Cancellation of Purchase Agreement confirming said cancellation and directing all earnest money paid here
64. to be ☐ **REFUNDED TO BUYER** ☐ **FORFEITED TO SELLER.**

65. **NOTE:** If this Purchase Agreement is subject to DVA or FHA financing, **FORFEITED TO SELLER** may be
66. prohibited. See the following DVA and FHA Escape Clauses.

67. ☐ Buyer shall provide Seller, or licensee representing or assisting Seller, with the Written Statement, on
68. or before _____.

69. For purposes of this Contingency, "Written Statement" means a Written Statement prepared by Buyer's mortgage
70. originator(s) or lender(s) after the Final Acceptance Date that Buyer is approved for the loan(s) specified in this
71. Purchase Agreement, including both the first mortgage and any subordinate financing, if any, and stating that an
72. appraisal, satisfactory to the lender(s), has been completed and stating conditions required by lender(s) to close
73. the loan.

74. Upon delivery of the Written Statement to Seller, or licensee representing or assisting Seller, the obligation for
75. satisfying all conditions required by mortgage originator(s) or lender(s), except those conditions specified below,
76. are deemed accepted by Buyer:

77. (a) work orders agreed to be completed by Seller;

78. (b) any other financing terms agreed to be completed by Seller here; and

79. (c) any contingency for the sale and closing of Buyer's property pursuant to this Purchase Agreement.

PURCHASE AGREEMENT: VACANT LAND (RESIDENTIAL)

80. Page 3 Date 03/22/2022

81. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
82. Upon delivery of the Written Statement, If this Purchase Agreement does not close on the stated closing date for
83. ANY REASON relating to financing, including, but not limited to interest rate and discount points, if any, then Seller
84. may, at Seller's option, declare this Purchase Agreement canceled, in which case this Purchase Agreement is
85. canceled. If Seller declares this Purchase Agreement canceled, Buyer and Seller shall immediately sign a
86. Cancellation of Purchase Agreement confirming said cancellation and directing all earnest money paid here to
87. be forfeited to Seller as liquidated damages. In the alternative, Seller may seek all other remedies allowed by law.
88. Notwithstanding the language in the preceding paragraph, Seller may not declare this Purchase Agreement
89. canceled if the reason this Purchase Agreement does not close was due to:
90. (a) Seller's failure to complete work orders to the extent required by this Purchase Agreement;
91. (b) Seller's failure to complete any other financing terms agreed to be completed by Seller here; or
92. (c) any contingency for the sale and closing of Buyer's property pursuant to this Purchase Agreement, except
93. as specified in the contingency for sale and closing of Buyer's property.
94. If the Written Statement is not provided by the date specified on line 68, Seller may, at Seller's option, declare this
95. Purchase Agreement canceled by written notice to Buyer at any time prior to Seller receiving the Written Statement,
96. in which case this Purchase Agreement is canceled. In the event Seller declares this Purchase Agreement
97. canceled, Buyer and Seller shall immediately sign a Cancellation of Purchase Agreement confirming said
98. cancellation and directing all earnest money paid here to be refunded to Buyer.
99. If the Written Statement is not provided, and Seller has not previously canceled this Purchase Agreement, this
100. Purchase Agreement is canceled as of the closing date specified in this Purchase Agreement. Buyer and Seller
101. shall immediately sign a Cancellation of Purchase Agreement confirming said cancellation and directing all
102. earnest money paid here to be refunded to Buyer.
103. **LOCKING OF MORTGAGE INTEREST RATE ("RATE"):** The Rate shall be locked with the lender(s) by Buyer:
104. (Check one.)
105. ☐ **WITHIN FIVE (5) BUSINESS DAYS OF FINAL ACCEPTANCE DATE; OR**
106. ☐ **AT ANY TIME PRIOR TO CLOSING OR AS REQUIRED BY LENDER(S).**
107. **LENDER COMMITMENT WORK ORDERS:** Seller agrees to pay up to \$ _____ to
108. make repairs as required by the lender commitment. If the lender commitment is subject to any work orders for which
109. the cost of making said repairs shall exceed this amount, Seller shall have the following options:
110. (a) making the necessary repairs; or
111. (b) negotiating the cost of making said repairs with Buyer; or
112. (c) declaring this Purchase Agreement canceled, in which case this Purchase Agreement is canceled. Buyer and Seller
113. shall immediately sign a Cancellation of Purchase Agreement confirming said cancellation and directing all
114. earnest money paid here to be refunded to Buyer, unless Buyer provides for payment of the cost of said repairs
115. or escrow amounts related thereto above the amount specified on line 107 of this Purchase Agreement.
116. ☐ **SELLER** ☐ **BUYER** agrees to pay any reinspection fee required by Buyer's lender(s).
_____(Check one.)_____
117. **FHA ESCAPE CLAUSE (FHA Financing only):** "It is expressly agreed that, notwithstanding any other provisions
118. of this contract, the purchaser shall not be obligated to complete the purchase of the Property described here or to
119. incur any penalty by forfeiture of earnest money deposits or otherwise, unless the purchaser has been given in
120. accordance with the Department of Housing and Urban Development ("HUD")/FHA or DVA requirements a written
121. statement by the Federal Housing Commissioner, Department of Veterans' Affairs, or a Direct Endorsement lender
122. setting forth the appraised value of the Property as not less than \$ _____.
(sale price)
123. The purchaser shall have the privilege and option of proceeding with consummation of the contract without regard
124. to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage
125. HUD will insure; HUD does not warrant the value nor the condition of the Property. The purchaser should satisfy
126. himself/herself that the price and condition of the Property are acceptable."
127. **LENDER PROCESSING FEES (FHA, DVA Financing Only):** Seller agrees to pay Buyer's closing fees and
128. miscellaneous processing fees which cannot be charged to Buyer, not to exceed \$ _____.
129. This amount is in addition to Seller's Contributions to Buyer's Costs, if applicable.

PURCHASE AGREEMENT: VACANT LAND (RESIDENTIAL)

130. Page 4 Date 03/22/2022

Brainerd MN 56401

131. Property located at 1702 Pennsylvania Ave

132. **DVA FUNDING FEE (DVA Financing only):** Pursuant to federal regulations, a one-time Funding Fee based on loan amount must be paid at the closing of this transaction as follows:

134. _____ paid by Buyer ☐ **AT CLOSING** ☐ **ADDED TO MORTGAGE AMOUNT**
(Check one.)

135. _____ paid by Seller

136. **NOTE: DVA regulations limit the fees and charges Buyer can pay to obtain a DVA loan.**

137. **DEPARTMENT OF VETERANS' AFFAIRS ESCAPE CLAUSE (DVA Financing only):** "It is expressly agreed that, notwithstanding any other provisions of this contract, the purchaser shall not incur any penalty by forfeiture of earnest money or otherwise be obligated to complete the purchase of the Property described here, if the contract purchase price or cost exceeds the reasonable value of this Property established by the Department of Veterans' Affairs. The purchaser shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of reasonable value established by the Department of Veterans' Affairs."

143. **NOTE: Verify DVA requirements relating to payment of all special assessments levied and pending, and annual installments of special assessments certified to yearly taxes.**

145. **OTHER MORTGAGE FINANCING ITEMS:** _____

146. _____

SELLER'S CONTRIBUTIONS TO BUYER'S COSTS:

148. Seller ☐ **IS** ☒ **IS NOT** contributing to Buyer's costs. If answer is **IS**, Seller agrees to pay at closing, up to: (Check one.)
----(Check one.)----

149. ☐ \$ _____

150. ☐ _____ percent (%) of the sale price
151. towards Buyer's closing fees, title service fees, title searches, title examinations, abstracting, lender's title insurance,
152. owner's title insurance, prepaid items, other Buyer's costs allowable by lender, if any, and/or mortgage discount points. Any
153. amount of Seller's contribution that exceeds Buyer's allowable costs, or which cannot be used because Seller's
154. contribution exceeds the maximum Seller contribution allowed by law or by mortgage requirements, shall be retained
155. by Seller.

156. **NOTE: The amount paid by Seller cannot exceed the maximum Seller contribution allowed by FHA, DVA, or**
157. **lender. All funds paid by Seller on behalf of Buyer must be stated on the Closing Disclosure at closing.**

SALE OF BUYER'S PROPERTY:

158. _____
159. (Check one.)

160. ☐ 1. This Purchase Agreement is subject to an Addendum to Purchase Agreement: Sale of Buyer's Property
161. Contingency for the sale of Buyer's property. (If checked, see attached Addendum.)

162. OR

163. ☐ 2. This Purchase Agreement is contingent upon the successful closing on the Buyer's property located at _____, which is scheduled to close on

164. _____ pursuant to a fully executed purchase agreement. If Buyer's
165. property does not close by the closing date specified in this Purchase Agreement, this Purchase Agreement
166. is canceled. Buyer and Seller shall immediately sign a Cancellation of Purchase Agreement confirming said
167. cancellation and directing all earnest money paid here to be refunded to Buyer. The language in this paragraph
168. supersedes any other provision to the contrary in any financing contingency made a part of this Purchase
169. Agreement, if applicable.

171. OR

172. ☒ 3. Buyer represents that Buyer has the financial ability to perform on this Purchase Agreement without the sale
173. and closing on any other property.



174. Page 5 Date 03/22/2022

175. Property located at 1702 Pennsylvania Ave Brainerd MN 56401

176.

179. Buyer shall pay ☒ PRORATED FROM DAY OF CLOSING ☐ ALL ☐ NONE ☐ _____ /12ths OF real estate
(Check one)

180. taxes due and payable in the year of closing.

181. Seller shall pay ☒ **PRORATED TO DAY OF CLOSING** ☐ **ALL** ☐ **NONE** ☐ _____ /12ths OF real estate taxes

182. due and payable in the year of closing.

183. Buyer shall pay real estate taxes due and payable in the year following closing and thereafter, the payment of which
184. is not otherwise here provided. No representations are made concerning the amount of subsequent real estate
185. taxes.

186. DEFERRED TAXES/SPECIAL ASSESSMENTS:

187. ☐ BUYER SHALL PAY ☒ SELLER SHALL PAY on date of closing any deferred real estate taxes
(Check one.)

188. (e.g. Green Acres) or special assessments, payment of which is required as a result of the closing of this sale.

189. ☐ BUYER AND SELLER SHALL PRORATE AS OF THE DATE OF CLOSING ☒ SELLER SHALL PAY ON _____
(Check one.)

190. **DATE OF CLOSING** all installments of special assessments certified for payment, with the real estate taxes due and
191. payable in the year or closing.

192. ☐ **BUYER SHALL ASSUME** ☒ **SELLER SHALL PAY** on date of closing all other special assessments levied as
 (Check one.)

193. of the Date of this Purchase Agreement.

194. ☐ BUYER SHALL ASSUME ☒ SELLER SHALL PROVIDE FOR PAYMENT OF special assessments pending as
(Check one)

195. of the Date of this Purchase Agreement for improvements that have been ordered by any assessing authorities.
196. (Seller's provision for payment shall be by payment into escrow of two (2) times the estimated amount of the
197. assessments or less, as required by Buyer's lender.)

198. Buyer shall pay any unpaid special assessments payable in the year following closing and thereafter, the payment of
199. which is not otherwise here provided.

200. As of the Date of this Purchase Agreement, Seller represents that Seller ☐ HAS ☒ HAS NOT received a notice
 _____(check one.)_____

201. regarding any new improvement project from any assessing authorities, the costs of which project may be assessed
202. against the Property. Any such notice received by Seller after the Date of this Purchase Agreement and before
203. closing shall be provided to Buyer immediately. If such notice is issued after the Date of this Purchase Agreement and
204. on or before the date of closing, then the parties may agree in writing, on or before the date of closing, to pay, provide
205. for the payment of, or assume the special assessments. In the absence of such agreement, either party may declare
206. this Purchase Agreement canceled by written notice to the other party, or licensee representing or assisting the other
207. party, in which case this Purchase Agreement is canceled. If either party declares this Purchase Agreement canceled,
208. Buyer and Seller shall immediately sign a Cancellation of Purchase Agreement confirming said cancellation and
209. directing all earnest money paid here to be refunded to Buyer.

210.

211. PREVIOUSLY EXECUTED PURCHASE AGREEMENT: This Purchase Agreement ☐ IS ☒ IS NOT subject to
 _____ (check one) _____

212. cancellation of a previously executed purchase agreement dated _____

213. (If answer is **IS**, said cancellation shall be obtained no later than _____)

214. If said cancellation is not obtained by said date, this Purchase Agreement is canceled. Buyer and Seller shall
215. immediately sign a Cancellation of Purchase Agreement confirming said cancellation and directing all earnest money
216. paid here to be refunded to Buyer.)

PURCHASE AGREEMENT: VACANT LAND (RESIDENTIAL)

217. Page 6 Date 03/22/2022

Brainerd MN 56401

218. Property located at 1702 Pennsylvania Ave

219. **SPECIAL CONTINGENCIES:** This Purchase Agreement is subject to the following contingencies, and if the
220. contingencies checked below are not satisfied or waived, in writing, by Buyer by June 17th 2022,
221. this Purchase Agreement is canceled as of said date. Buyer and Seller shall immediately sign a Cancellation of
222. Purchase Agreement confirming said cancellation and directing all earnest money paid here to be refunded to
223. Buyer.

224. (Select appropriate options a-k.)

225. ☐ (a) Buyer obtaining a physical inspection of the Property, satisfactory to Buyer.
226. ☐ (b) Buyer obtaining evidence of utility connections available, and costs for connection to the Property, satisfactory
227. to Buyer.

228. ☐ (c) ☐ **BUYER** ☐ **SELLER** shall provide a certificate of survey of the Property, at ☐ **BUYER** ☐ **SELLER**
(Check one.) expense.

229. ☐ (d) Buyer obtaining approval of city/township of proposed building plans and specifications at
230. ☐ **BUYER** ☐ **SELLER** expense.
231. (Check one.)

232. ☐ (e) Buyer obtaining approval of city/township of proposed subdivision development plans at
233. ☐ **BUYER** ☐ **SELLER** expense.
(Check one.)

234. ☐ (f) Buyer obtaining approval of city/township for rezoning or use permits at ☐ **BUYER** ☐ **SELLER** expense.
(Check one.)

235. ☐ (g) Buyer obtaining, at ☐ **BUYER** ☐ **SELLER** expense, percolation tests which are acceptable to Buyer.
(Check one.)

236. ☐ (h) Buyer obtaining, at ☐ **BUYER** ☐ **SELLER** expense, soil tests which indicate that the Property may be
237. improved without extraordinary building methods or cost.
(Check one.)

238. ☐ (i) Buyer obtaining approval of building plans and/or specifications in accordance with any recorded subdivision
239. covenants and approval of the architectural control committee.

240. ☐ (j) Buyer obtaining, at ☐ **BUYER** ☐ **SELLER** expense, copies of all covenants, reservations, and restrictions
241. affecting the Property, satisfactory to Buyer.
(Check one.)

242. ☒ (k) Other:
243. This Purchase Agreement is contingent upon Buyer obtaining, at Buyer expense, a Phase I, and
244. subsequent Phase II (if necessary) environmental site assessment(s), acceptable to Buyer in
Buyer's sole discretion.

245.
246. Seller's expenses for these contingencies (if any) shall not exceed \$ 0.00

247. **DEED/MARKETABLE TITLE:** Upon performance by Buyer, Seller shall deliver a: (Check one.)

248. ☒ **WARRANTY DEED** ☐ **PERSONAL REPRESENTATIVE'S DEED** ☐ **CONTRACT FOR DEED**

249. ☐ **TRUSTEE'S DEED** ☐ Other: _____ Deed joined in by spouse, if any, conveying
250. marketable title, subject to

251. (a) building and zoning laws, ordinances, state and federal regulations;

252. (b) restrictions relating to use or improvement of the Property without effective forfeiture provisions;

253. (c) reservation of any mineral rights by the State of Minnesota;

254. (d) utility and drainage easements which do not interfere with existing improvements;

255. (e) **rights of tenants as follows** (unless specified, not subject to tenancies): _____; and
256. _____

257. (f) others (must be specified in writing): _____

258. _____

260. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
261. **POSSESSION:** Seller shall deliver possession of the Property: (Check one.)
262. ☒ **IMMEDIATELY AFTER CLOSING;** or
263. ☐ **OTHER:** _____
264. Seller agrees to remove ALL DEBRIS AND ALL PERSONAL PROPERTY NOT INCLUDED HERE from the Property
265. by possession date.
266. **PRORATIONS:** All interest; unit owners' association dues; rents; and charges for city water, city sewer, electricity,
267. and natural gas shall be prorated between the parties as of date of closing. Buyer shall pay Seller for remaining
268. gallons of fuel oil or liquid petroleum gas on the day of closing, at the rate of the last fill by Seller.
269. **TITLE AND EXAMINATION:** Within a reasonable time period after Final Acceptance Date, Seller shall provide one of
270. the following title evidence options, at Seller's selection, which shall include proper searches covering bankruptcies,
271. state and federal judgments and liens, and levied and pending special assessments to Buyer or Buyer's designated
272. title service provider:
273. (a) A commitment for an owner's policy of title insurance on a current ALTA form issued by an insurer licensed to write
274. title insurance in Minnesota as selected by Buyer. Seller shall be responsible for the title search and exam costs
275. related to the commitment. Buyer shall be responsible for all additional costs related to the issuance of the title
276. insurance policy(ies), including but not limited to the premium(s), Buyer's name search and plat drawing, if
277. any. Seller shall deliver any abstract of title and a copy of any owner's title insurance policy for the Property,
278. if in Seller's possession or control, to Buyer or Buyer's designated title service provider. Any abstract of title or
279. owner's title insurance policy provided shall be immediately returned to Seller, or licensee representing or
280. assisting Seller, upon cancellation of this Purchase Agreement.
281. (b) An Abstract of Title certified to date if Abstract Property or a Registered Property Abstract ("RPA") certified to date
282. if Registered (Torrens) Property. Seller shall pay for the abstracting or RPA costs and deliver any abstract for
283. this Property in Seller's possession or control to Buyer or Buyer's designated title service provider. Any abstract
284. provided shall be immediately returned to Seller, or licensee representing or assisting Seller, upon cancellation of
285. this Purchase Agreement. If Property is Abstract and Seller does not have an abstract of title, Option (a) will
286. automatically apply.
287. Seller shall use Seller's best efforts to provide marketable title by the date of closing. In the event that Seller has not
288. provided marketable title by the date of closing, Seller shall have an additional thirty (30) days to make title marketable
289. or, in the alternative, Buyer may waive title defects by written notice to Seller. In addition to the thirty (30)-day
290. extension, Buyer and Seller may by mutual agreement further extend the closing date. Lacking such extension,
291. either party may declare this Purchase Agreement canceled by written notice to the other party, or licensee
292. representing or assisting the other party, in which case this Purchase Agreement is canceled. If either party declares
293. this Purchase Agreement canceled, Buyer and Seller shall immediately sign a Cancellation of Purchase Agreement
294. confirming said cancellation and directing all earnest money paid here to be refunded to Buyer.
295. **SUBDIVISION OF LAND, BOUNDARIES, AND ACCESS:** If this sale constitutes or requires a subdivision of land
296. owned by Seller, Seller shall pay all subdivision expenses and obtain all necessary governmental approvals. This
297. provision deals with the necessity of subdividing land to complete the sale of the Property described here in contrast
298. to the subdivision provision of lines 232-233 which deals with the future development plans of Buyer. Seller warrants
299. the legal description of the real Property to be conveyed has been or shall be approved for recording as of the date
300. of closing. Seller warrants that there is a right of access to the Property from a public right-of-way.
301. **MECHANIC'S LIENS:** Seller warrants that prior to the closing, payment in full will have been made for all labor,
302. materials, machinery, fixtures, or tools furnished within the 120 days immediately preceding the closing.
303. **NOTICES:** Seller warrants that Seller has not received any notice from any governmental authority as to condemnation
304. proceedings or violation of any law, ordinance, or regulation. If the Property is subject to restrictive covenants, Seller
305. warrants that Seller has not received any notice from any person or authority as to a breach of the covenants. Any
306. such notices received by Seller shall be provided to Buyer immediately.
307. **DIMENSIONS:** Buyer acknowledges any dimensions, square footage, or acreage of land or improvements provided
308. by Seller, third party, or broker representing or assisting Seller are approximate. Buyer shall verify the accuracy of
309. information to Buyer's satisfaction, if material, at Buyer's sole cost and expense.

PURCHASE AGREEMENT: VACANT LAND (RESIDENTIAL)

310. Page 8 Date 03/22/2022

Brainerd MN 56401

311. Property located at 1702 Pennsylvania Ave

312. **ACCESS AGREEMENT:** Seller agrees to allow Buyer reasonable access to the Property for performance of any
313. surveys, inspections or tests, or for water, sewer, gas, or electrical service hookup as agreed to here. Buyer shall
314. restore the premises to the same condition it was in prior to the surveys, inspections, or tests and pay for any
315. restoration costs relative thereto.

316. **RISK OF LOSS:** If there is any loss or damage to the Property between the Date of this Purchase Agreement and
317. the date of closing for any reason, including fire, vandalism, flood, earthquake, or act of God, the risk of loss shall
318. be on Seller. If the Property is destroyed or substantially damaged before the closing date, this Purchase Agreement
319. is canceled, at Buyer's option, by written notice to Seller or licensee representing or assisting Seller. If Buyer cancels
320. this Purchase Agreement, Buyer and Seller shall immediately sign a Cancellation of Purchase Agreement confirming
321. said cancellation and directing all earnest money paid here to be refunded to Buyer.

322. **TIME OF ESSENCE:** Time is of the essence in this Purchase Agreement.

323. **CALCULATION OF DAYS:** Any calculation of days begins on the first day (Calendar or Business Days as specified)
324. following the occurrence of the event specified and includes subsequent days (Calendar or Business Days as
325. specified) ending at 11:59 P.M. on the last day.

326. **BUSINESS DAYS:** "Business Days" are days which are not Saturdays, Sundays, or state and federal holidays
327. unless stated elsewhere by the parties in writing.

328. **CALENDAR DAYS:** "Calendar Days" include Saturdays, Sundays, or state or federal holidays. For purposes of this
329. Agreement, any reference to "days" means "Calendar Days" unless otherwise required by law.

330. **RELEASE OF EARNEST MONEY:** Buyer and Seller agree that the Earnest Money Holder shall release earnest
331. money from the Earnest Money Holder's trust account:

- 332. (a) at or upon the successful closing of the Property;
- 333. (b) pursuant to written agreement between the parties, which may be reflected in a Cancellation of Purchase
334. Agreement executed by both Buyer and Seller;
- 335. (c) upon receipt of an affidavit of a cancellation under MN Statute 559.217; or
- 336. (d) upon receipt of a court order.

337. **DEFAULT:** If Buyer defaults in any of the agreements here, Seller may cancel this Purchase Agreement, and any
338. payments made here, including earnest money, shall be retained by Seller as liquidated damages and Buyer and
339. Seller shall affirm the same by a written cancellation agreement.

340. If Buyer defaults in any of the agreements here, Seller may terminate this Purchase Agreement under the
341. provisions of either MN Statute 559.21 or MN Statute 559.217, whichever is applicable. If either Buyer or Seller
342. defaults in any of the agreements here or there exists an unfulfilled condition after the date specified for fulfillment,
343. either party may cancel this Purchase Agreement under MN Statute 559.217, Subd. 3. Whenever it is provided here
344. that this Purchase Agreement is canceled, said language shall be deemed a provision authorizing a Declaratory
345. Cancellation under MN Statute 559.217, Subd. 4.

346. If this Purchase Agreement is not canceled or terminated as provided here, Buyer or Seller may seek actual damages
347. for breach of this Purchase Agreement or specific performance of this Purchase Agreement; and, as to specific
348. performance, such action must be commenced within six (6) months after such right of action arises.

349. **NOTICE REGARDING AIRPORT ZONING REGULATIONS:** The Property may be in or near an airport safety zone
350. with zoning regulations adopted by the governing body that may affect the Property. Such zoning regulations are
351. filed with the county recorder in each county where the zoned area is located. If you would like to determine if such
352. zoning regulations affect the Property, you should contact the county recorder where the zoned area is located.

353. **NOTICE REGARDING PREDATORY OFFENDER INFORMATION:** Information regarding the predatory offender
354. registry and persons registered with the predatory offender registry under MN Statute 243.166 may be
355. obtained by contacting the local law enforcement offices in the community where the Property is located
356. or the Minnesota Department of Corrections at (651) 361-7200, or from the Department of Corrections web
357. site at www.corr.state.mn.us.

359. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
360. **SPECIAL DISCLOSURES:** Seller discloses, to the best of Seller's knowledge, that the Property described in this
361. Purchase Agreement consists of approximately 35.23 ☒ **ACRES** ☐ **SQUARE FEET** and is currently zoned
(Check one.)
362. Commercial Preferred and Rural Vacant Land
363. Seller discloses, to the best of Seller's knowledge, that the Property ☒ **IS** ☐ **IS NOT** in a designated flood zone.
(Check one.)
364. Seller discloses, to the best of Seller's knowledge, that the Property ☐ **DOES** ☒ **DOES NOT** currently receive
(Check one.)
365. preferential tax treatment (e.g. Green Acres, Managed Forest Land, Non-Profit Status, Rural Preserve, SFIA, etc.).
366. Seller discloses, to the best of Seller's knowledge, that the Property ☐ **IS** ☒ **IS NOT** enrolled in any federal, state, or
(Check one.)
367. local governmental programs (e.g., conservation programs, CREP, CRP, EQIP, Green Acres, Managed Forest Land,
368. RIM, riparian buffers, Rural Preserve, SFIA, WRP/RIM-WRP, etc.).

369. **BUYER HAS THE RIGHT TO A WALK-THROUGH REVIEW OF THE PROPERTY PRIOR TO CLOSING TO**
370. **ESTABLISH THAT THE PROPERTY IS IN SUBSTANTIALLY THE SAME CONDITION AS OF THE DATE OF THIS**
371. **PURCHASE AGREEMENT.**
372. BUYER HAS RECEIVED A: (Check any that apply.) ☐ **DISCLOSURE STATEMENT: VACANT LAND** OR A
373. ☐ **DISCLOSURE STATEMENT: SELLER'S DISCLOSURE ALTERNATIVES** FORM.
374. **DESCRIPTION OF PROPERTY CONDITION:** See Disclosure Statement: Vacant Land or Disclosure Statement:
375. Seller's Disclosure Alternatives for description of disclosure responsibilities and limitations, if any.
376. **BUYER HAS RECEIVED THE INSPECTION REPORTS, IF REQUIRED BY MUNICIPALITY.**
377. **BUYER IS NOT RELYING ON ANY ORAL REPRESENTATIONS REGARDING THE CONDITION OF THE PROPERTY.**

378. **PLEASE NOTE:** Buyer may incur additional charges improving the Property, including, but not limited to, hookup and/
379. or access charges; municipal charges; costs for sewer access, stubbing access, water access, park dedication, road
380. access, curb cuts, utility connection and connecting fees; and tree planting charges.

381. (Check appropriate boxes.)
382. SELLER WARRANTS THAT THE PROPERTY IS EITHER DIRECTLY OR INDIRECTLY CONNECTED TO:
383. **CITY SEWER** ☐ **YES** ☒ **NO** / **CITY WATER** ☐ **YES** ☒ **NO**
384. **SUBSURFACE SEWAGE TREATMENT SYSTEM**
385. SELLER ☐ **DOES** ☒ **DOES NOT** KNOW OF A SUBSURFACE SEWAGE TREATMENT SYSTEM ON OR
(Check one.)
386. SERVING THE PROPERTY. (If answer is **DOES**, and the system does not require a state permit, see Disclosure
387. Statement: Subsurface Sewage Treatment System.)
388. **PRIVATE WELL**
389. SELLER ☐ **DOES** ☒ **DOES NOT** KNOW OF A WELL ON OR SERVING THE PROPERTY.
(Check one.)
390. (If answer is **DOES** and well is located on the Property, see Disclosure Statement: Well.)
391. TO THE BEST OF SELLER'S KNOWLEDGE, THE PROPERTY ☐ **IS** ☒ **IS NOT** IN A SPECIAL WELL
(Check one.)
392. CONSTRUCTION AREA.
393. THIS PURCHASE AGREEMENT ☐ **IS** ☒ **IS NOT** SUBJECT TO AN ADDENDUM TO PURCHASE AGREEMENT:
(Check one.)
394. SUBSURFACE SEWAGE TREATMENT SYSTEM AND WELL INSPECTION CONTINGENCY.
395. (If answer is **IS**, see attached Addendum.)
396. **IF A WELL OR SUBSURFACE SEWAGE TREATMENT SYSTEM EXISTS ON THE PROPERTY, BUYER HAS**
397. **RECEIVED A DISCLOSURE STATEMENT: WELL AND/OR A DISCLOSURE STATEMENT: SUBSURFACE**
398. **SEWAGE TREATMENT SYSTEM.**

400. Property located at 1702 Pennsylvania Ave

AGENCY NOTICE

401.

402.

(Licensee)

is ☐ Seller's Agent ☐ Buyer's Agent ☐ Dual Agent ☐ Facilitator.
(Check one.)

403.

(Real Estate Company Name)

404.

Brad Wadsten

(Licensee)

is ☐ Seller's Agent ☒ Buyer's Agent ☐ Dual Agent ☐ Facilitator.
(Check one.)

405.

Edina Realty, Inc.

(Real Estate Company Name)

406.

THIS NOTICE DOES NOT SATISFY MINNESOTA STATUTORY AGENCY DISCLOSURE REQUIREMENTS.

DUAL AGENCY REPRESENTATION

407.

408. **PLEASE CHECK ONE OF THE FOLLOWING SELECTIONS:**

409. ☒ Dual Agency representation DOES NOT apply in this transaction. Do not complete lines 410-426.

410. ☐ Dual Agency representation DOES apply in this transaction. Complete the disclosure in lines 411-426.

411. Broker represents both the Seller(s) and the Buyer(s) of the Property involved in this transaction, which creates a
412. dual agency. This means that Broker and its salespersons owe fiduciary duties to both Seller(s) and Buyer(s). Because
413. the parties may have conflicting interests, Broker and its salespersons are prohibited from advocating exclusively for
414. either party. Broker cannot act as a dual agent in this transaction without the consent of both Seller(s) and Buyer(s).
415. Seller(s) and Buyer(s) acknowledge that

416. (1) confidential information communicated to Broker which regards price, terms, or motivation to buy or sell will
417. remain confidential unless Seller(s) or Buyer(s) instructs Broker in writing to disclose this information. Other
418. information will be shared;
419. (2) Broker and its salespersons will not represent the interest of either party to the detriment of the other; and
420. (3) within the limits of dual agency, Broker and its salespersons will work diligently to facilitate the mechanics of
421. the sale.

422. With the knowledge and understanding of the explanation above, Seller(s) and Buyer(s) authorize and instruct Broker
423. and its salesperson to act as dual agents in this transaction.

424. Seller _____ Buyer _____

425. Seller _____ Buyer _____

426. Date _____ Date _____

427. **CLOSING COSTS:** Buyer or Seller may be required to pay certain closing costs, which may effectively increase the
428. cash outlay at closing or reduce the proceeds from the sale.

429. **SETTLEMENT STATEMENT:** Buyer and Seller authorize the title company, escrow agent, and/or their representatives
430. to disclose and provide copies of the disbursing agent's settlement statement to the real estate licensees involved
431. in the transaction at the time these documents are provided to Buyer and Seller.

433. Property located at 1702 Pennsylvania Ave Brainerd MN 56401

434. **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** Section 1445 of the Internal Revenue Code
435. provides that a transferee ("Buyer") of a United States real property interest must be notified in writing and must withhold
436. tax if the transferor ("Seller") is a foreign person and no exceptions from FIRPTA withholding apply. Buyer and Seller
437. agree to comply with FIRPTA requirements under Section 1445 of the Internal Revenue Code.

438. Seller shall represent and warrant, under the penalties of perjury, whether Seller is a "foreign person" (as the same
439. is defined within FIRPTA), prior to closing. Any representations made by Seller with respect to this issue shall survive
440. the closing and delivery of the deed.

441. Buyer and Seller shall complete, execute, and deliver, on or before closing, any instrument, affidavit, or statement
442. reasonably necessary to comply with the FIRPTA requirements, including delivery of their respective federal taxpayer
443. identification numbers or Social Security numbers.

444. Due to the complexity and potential risks of failing to comply with FIRPTA, including the Buyer's responsibility for
445. withholding the applicable tax, Buyer and Seller should **seek appropriate legal and tax advice regarding FIRPTA**
446. **compliance, as the respective licensee's representing or assisting either party will be unable to assure either**
447. **party whether the transaction is exempt from FIRPTA withholding requirements.**

448. **FULLY EXECUTED PURCHASE AGREEMENT AND FINAL ACCEPTANCE:** To be binding, this Purchase Agreement
449. and all addenda must be fully executed by both parties and a copy must be delivered.

450. **ELECTRONIC SIGNATURES:** The parties agree the electronic signature of any party on any document related to
451. this transaction constitute valid, binding signatures.

452. **ENTIRE AGREEMENT:** This Purchase Agreement and all addenda and amendments signed by the parties shall
453. constitute the entire agreement between Buyer and Seller. Any other written or oral communication between Buyer
454. and Seller, including, but not limited to, e-mails, text messages, or other electronic communications are not part of this
455. Purchase Agreement. This Purchase Agreement can be modified or canceled only in writing signed by Buyer and
456. Seller or by operation of law. All monetary sums are deemed to be United States currency for purposes of this
457. Purchase Agreement.

458. **SURVIVAL:** All warranties specified in this Purchase Agreement shall survive the delivery of the deed or contract
459. for deed.

460. **DATE OF THIS PURCHASE AGREEMENT:** Date of this Purchase Agreement to be defined as the date on line one
461. (1) of this Purchase Agreement.

462. **OTHER:**

463. _____

464. _____

465. **ADDENDA:** The following addenda are attached and made a part of this Purchase Agreement.

466. **NOTE:** Disclosures and optional Arbitration Agreement are not part of this Purchase Agreement.

467. ☒ Addendum to Purchase Agreement

468. ☐ Addendum to Purchase Agreement: Assumption Financing

469. ☐ Addendum to Purchase Agreement: Buyer Purchasing "As Is" and Limitation of Seller Liability

470. ☐ Addendum to Purchase Agreement: Condominium/Townhouse/Cooperative Common Interest Community
471. ("CIC")

472. ☐ Addendum to Purchase Agreement: Contract for Deed Financing

473. ☐ Addendum to Purchase Agreement: Disclosure of Information on Lead-Based Paint and Lead-Based Paint
474. Hazards

475. ☐ Addendum to Purchase Agreement: Sale of Buyer's Property Contingency

476. ☐ Addendum to Purchase Agreement: Seller's Purchase/Lease Contingency

477. ☐ Addendum to Purchase Agreement: Seller's Rent Back Agreement

478. ☐ Addendum to Purchase Agreement: Short Sale Contingency

479. ☐ Addendum to Purchase Agreement: Subsurface Sewage Treatment System and Well Inspection Contingency

480. ☐ Other: _____

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a Berkshire Hathaway affiliate

PURCHASE AGREEMENT: VACANT LAND (RESIDENTIAL)

481. Page 12 Date 03/22/2022

Brainerd MN 56401

482. Property located at 1702 Pennsylvania Ave

483. I agree to sell the Property for the price and on the terms
484. and conditions set forth above.

485. **I have reviewed all pages of this Purchase**
486. **Agreement.**

487. ☐ If checked, this Purchase Agreement is subject to
488. attached *Addendum to Purchase Agreement:*
489. *Counteroffer* and the Final Acceptance Date shall
490. be noted on the *Addendum*.

491. **FIRPTA:** Seller represents and warrants, under penalty
492. of perjury that Seller ☐ IS ☒ IS NOT a foreign person (i.e., a
493. non-resident alien individual, foreign corporation, foreign
494. partnership, foreign trust, or foreign estate for purposes of
495. income taxation. (See lines 434-447.)) This representation
496. and warranty shall survive the closing of the transaction
497. and the delivery of the deed.

I agree to purchase the Property for the price and on
the terms and conditions set forth above.
I have reviewed all pages of this Purchase
Agreement.

498. X _____
(Seller's Signature) (Date)

X _____
(Buyer's Signature) (Date)

499. X Roberts Sand & Gravel
(Seller's Printed Name)

X City of Brainerd
(Buyer's Printed Name)

500. X _____
(Seller's Signature) (Date)

X _____
(Buyer's Signature) (Date)

501. X _____
(Seller's Printed Name)

X _____
(Buyer's Printed Name)

502. **FINAL ACCEPTANCE DATE:** _____ The Final Acceptance Date
503. is the date on which the fully executed Purchase Agreement is delivered.

504. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER(S) AND SELLER(S).**
505. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**

506. **I ACKNOWLEDGE THAT I HAVE RECEIVED AND HAVE HAD THE OPPORTUNITY TO REVIEW THE**
507. **DISCLOSURE STATEMENT: ARBITRATION DISCLOSURE AND RESIDENTIAL REAL PROPERTY ARBITRATION**
508. **AGREEMENT, WHICH IS AN OPTIONAL, VOLUNTARY AGREEMENT SEPARATE FROM THIS PURCHASE**
509. **AGREEMENT.**

510. **SELLER(S)** Roberts Sand & Gravel

BUYER(S) City of Brainerd

511. **SELLER(S)** _____

BUYER(S) _____

MN:PA:VL-12 (8/21)

ER-169-12 (8/21)

 **TRANSACTIONS**
TransactionDesk Edition

ADDENDUM TO PURCHASE AGREEMENT

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1. Date 03/22/2022
2. Page 1

3. Addendum to Purchase Agreement between parties, dated March 22 2022
4. (Date of this Purchase Agreement), pertaining to the purchase and sale of the Property at
5. 1702 Pennsylvania Ave Brainerd MN 56401

6. In the event of a conflict between this Addendum and any other provision of the Purchase Agreement, the language
7. in this Addendum shall govern.

8. Seller shall grant Buyer at closing a written Right of First Refusal (ROFR) on PID#s 41360513,
9. 41361083, 41361084, along with the new split along the north side of PID #41361081 (to be
retained by Seller).

10. Buyer to grant to Seller a life of structure easement for the sewer line running from PID#
11. 41360513 (Keith & Jan Roberts parcel).

12. Seller to engage KLD Land Surveying to perform a full survey of the property, including legally
defining the new split along the north side of PID #41361081 (to be retained by Seller), along
13. with the legal description for the life of structure easement for the sewer line. New split lot
lines are approximated on attached aerial map dated 1/27/2017.
14. Buyers agree to contribute 50% of this cost, payable to Seller at closing.

15.

16.

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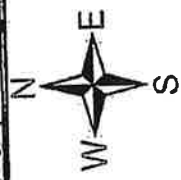
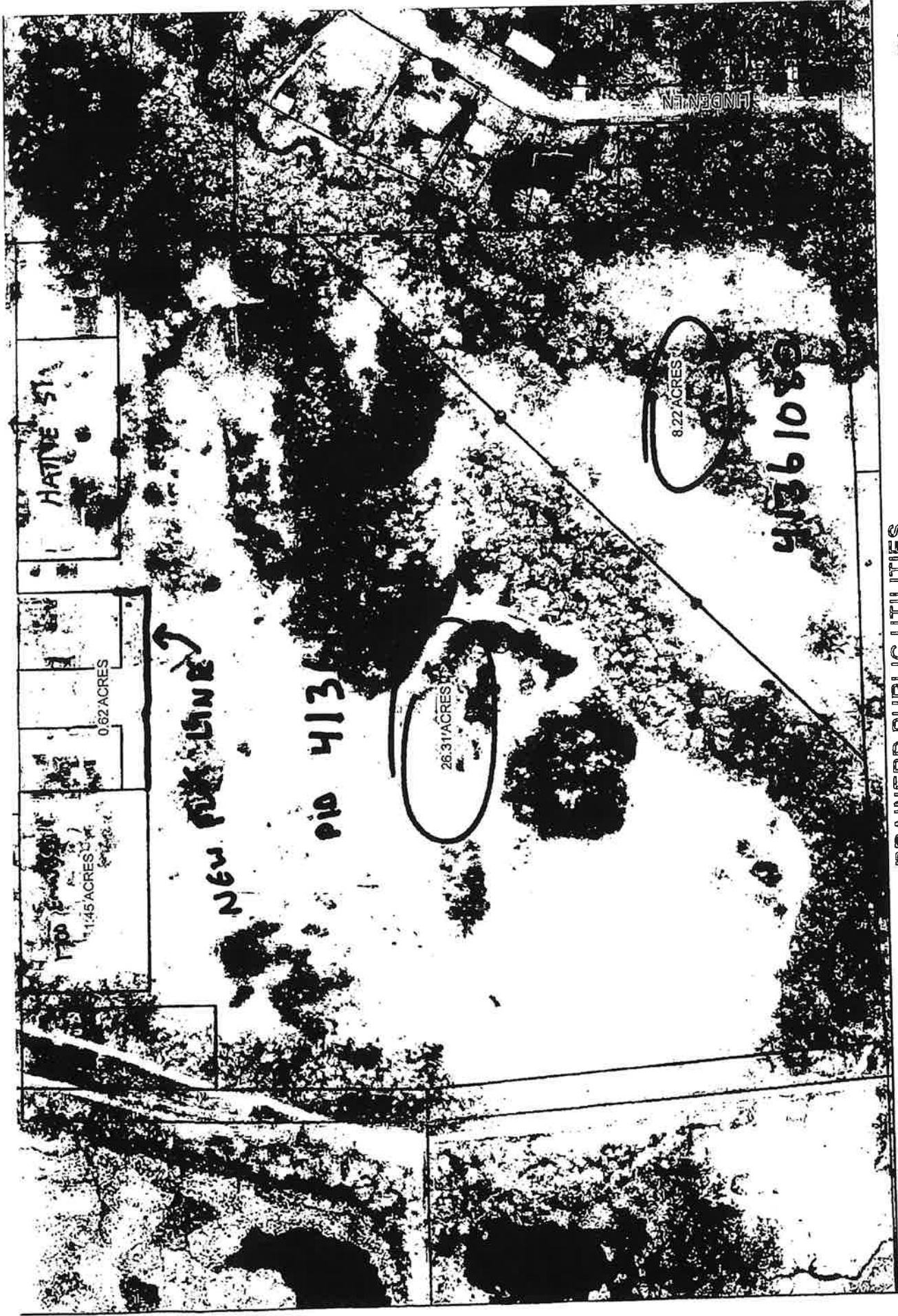
29.

30.

31. _____
(Seller) Roberts Sand & Gravel (Date) (Buyer) City of Brainerd (Date)

32. _____
(Seller) (Date) (Buyer) (Date)

33. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYER(S) AND SELLER(S).**
34. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**



Date: 01/27/2017

**BRainerd PUBLIC UTILITIES
ROBERTS SAND & GRAVEL PROPERTY**

This map is intended for reference purposes only and is not a legally recorded map nor survey. Brainerd Public Utilities shall not be liable for any damages or claims that arise due to accuracy, availability, use, or misuse of the information herein pursuant to MN Statutes 466.03 Subd 21.



a Berkshire Hathaway affiliate

DISCLOSURE STATEMENT: VACANT LAND

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1. Date _____
2. Page 1 of _____ pages: RECORDS AND
3. REPORTS, IF ANY, ARE ATTACHED AND MADE
4. A PART OF THIS DISCLOSURE

5. THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.

6. **NOTICE:** This Disclosure Statement satisfies the disclosure requirements of MN Statutes 513.52 through 513.60.
7. Under Minnesota law, Sellers of residential property, with limited exceptions listed on page nine (9), are obligated to
8. disclose to prospective Buyers all material facts of which Seller is aware that could adversely and significantly affect
9. an ordinary buyer's use or enjoyment of the property or any intended use of the property of which Seller is aware.
10. MN Statute 513.58 requires Seller to notify Buyer in writing as soon as reasonably possible, but in any event before
11. closing, if Seller learns that Seller's disclosure was inaccurate. Seller is obligated to continue to notify Buyer, in writing,
12. of any facts disclosed herein (new or changed) of which Seller is aware that could adversely and significantly affect the
13. Buyer's use or enjoyment of the property or any intended use of the property that occur up to the time of closing.
14. Seller has disclosure alternatives allowed by MN Statutes. See Disclosure Statement: Seller's Disclosure Alternatives
15. form for further information regarding disclosure alternatives. This disclosure is not a warranty or a guarantee of any
16. kind by Seller or licensee(s) representing or assisting any party in the transaction.

17. For purposes of the seller disclosure requirements of MN Statutes 513.52 through 513.60:

18. "Residential real property" or "residential real estate" means property occupied as, or intended to be occupied as, a
19. single-family residence, including a unit in a common interest community as defined in MN Statute 515B.1-103, clause
20. (10), regardless of whether the unit is in a common interest community not subject to Chapter 515B.

21. The seller disclosure requirements of MN Statutes 513.52 through 513.60 apply to the transfer of any interest in
22. residential real estate, whether by sale, exchange, deed, contract for deed, lease with an option to purchase, or any
23. other option.

24. **INSTRUCTIONS TO BUYER:** Buyers are encouraged to thoroughly inspect the Property personally or have it inspected
25. by a third party, and to inquire about any specific areas of concern. **NOTE:** If Seller answers "No" to any of the
26. questions listed below, it does not necessarily mean that it does not exist on the Property, did not occur, or does not
27. apply. "No" may mean that Seller is unaware.

28. **INSTRUCTIONS TO SELLER:** (1) Complete this form yourself. (2) Consult prior disclosure statement(s) and/or
29. inspection report(s) when completing this form. (3) Describe conditions affecting the Property to the best of your
30. knowledge. (4) Attach additional pages with your signature if additional space is required. (5) Answer all questions.
31. (6) If any items do not apply, write "NA" (not applicable).

32. Property location or identification 1702 Pennsylvania Ave
(Address/Section/Township/Range)

33. PID # _____, Legal Description PID#s 060362300F00889 & 060362300G00009 Legals to Govern

34. City or Township of Brainerd, County of Crow Wing

35. State of Minnesota, Zip Code 56401 ("Property").

36. **A. GENERAL INFORMATION:** The following questions are to be answered to the best of Seller's knowledge.

37. (1) What date did you acquire the land? _____

38. (2) Type of title evidence: ☐ Abstract ☐ Registered (Torrens) ☐ Unknown

39. Location of Abstract: _____

40. Is there an existing Owner's Title Insurance Policy? ☐ Yes ☐ No

41. (3) Are you in possession of prior vacant land disclosure statement(s)?

42. (If "Yes," please attach if in your possession.) ☐ Yes ☐ No

MN:DS-VL-1 (8/21)

ER-168-1 (8/21)



44. **THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.**

45. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
46. (4) Are there any current or past Phase I, Phase II, or Phase III Environmental Site Assessment(s)? (If "Yes," please attach if in your possession.) ☐ Yes ☐ No
47. (5) Access (where/type): _____
48. Is access (legal and physical) other than by direct frontage on a public road? ☐ Yes ☐ No
49. (6) Has the Property been surveyed? ☐ Yes ☐ No
50. Year surveyed: _____
51. What company/person performed the survey? _____
52. Name: _____ Address: _____ Phone: _____
53. (7) Is this platted land? ☐ Yes ☐ No
54. If "Yes,"
55. has the plat been recorded? ☐ Yes ☐ No
56. do you have a certificate of survey in your possession? ☐ Yes ☐ No
57. If "Yes," who completed the survey? _____ When? _____
58. (8) Are there any property markers on the Property? ☐ Yes ☐ No
59. If "Yes," give details: _____
60. _____
61. (9) Is the Property located on a public or private road? ☐ Public ☐ Private ☐ Public: no maintenance
62. (10) Are there any private or non-dedicated roadways that you are responsible for? ☐ Yes ☐ No
63. (11) Are there any rivers, lakes, ponds, creeks, streams, or springs running through the Property or along a boundary line? ☐ Yes ☐ No
64. (12) **Flood Insurance:** All properties in the State of Minnesota have been assigned a flood zone designation. Some flood zones may require flood insurance.
65. (a) Do you know which zone the Property is located in? ☐ Yes ☐ No
66. If "Yes," which zone? _____
67. (b) Have you ever had a flood insurance policy? ☐ Yes ☐ No
68. If "Yes," is the policy in force? ☐ Yes ☐ No
69. If "Yes," what is the annual premium? \$ _____
70. If "Yes," who is the insurance carrier? _____
71. (c) Have you ever had a claim with a flood insurance carrier or FEMA? ☐ Yes ☐ No
72. If "Yes," please explain: _____
73. _____
74. _____
75. _____
76. _____

NOTE: Whether or not Seller currently carries flood insurance, it may be required in the future. Flood insurance premiums are increasing, and in some cases will rise by a substantial amount over the premiums previously charged for flood insurance for the Property. As a result, Buyer should not rely on the premiums paid for flood insurance on this Property previously as an indication of the premiums that will apply after Buyer completes their purchase.

83. THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.

84. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
85. (13) Is the Property located in a drainage district, County or Judicial Drainage System? ☐ Yes ☐ No
86. (14) Is the Property drain tiled? ☐ Yes ☐ No
87. (15) Is there a private drainage system on the Property? ☐ Yes ☐ No
88. (16) Is the Property located within a government designated disaster evacuation zone
89. (e.g., nuclear facility, hazardous chemical facility, hazardous waste facility)? ☐ Yes ☐ No
90. (17) Are there encroachments? ☐ Yes ☐ No
91. (18) Please provide clarification or further explanation for all applicable "Yes" responses in Section A:

92. _____

93. _____

94. B. GENERAL CONDITION: The following questions are to be answered to the best of Seller's knowledge.

95. (1) Are there any structures, improvements, or emblements (e.g., crops) included
96. in the sale? ☐ Yes ☐ No
97. If "Yes," list all items: _____
98. _____
99. (2) Are there any abandoned or junk motor vehicles, equipment of any kind, or debris
100. Included in the sale? ☐ Yes ☐ No
101. If "Yes," list all items: _____
102. _____
103. (3) Are there any drainage issues, flooding, or conditions conducive to flooding? ☐ Yes ☐ No
104. (4) Has there been any damage by wind, fire, flood, hail, or other cause(s)? ☐ Yes ☐ No
105. If "Yes," give details of what happened and when: _____
106. _____
107. (5) Were there any previous structures on the Property? ☐ Yes ☐ No
108. (6) Are there any settling, erosion, or soil movement problems on or affecting
109. the Property? ☐ Yes ☐ No
110. (7) Are there any gravel pits, caves, sink holes, or mineshafts on or affecting
111. the Property? ☐ Yes ☐ No
112. (8) For any questions in Section B answered "Yes," please explain: _____

113. _____

114. _____

115. C. USE RESTRICTIONS: The following questions are to be answered to the best of Seller's knowledge.

116. (1) Do any of the following types of covenants, conditions, reservations of rights or use, or restrictions affect
117. the use or future resale of the Property?
118. (a) Are there easements, other than utility or drainage easements? ☐ Yes ☐ No
119. (b) Are there any public or private use paths or roadway rights of way/
120. easement(s)? ☐ Yes ☐ No
121. (c) Are there any ongoing financial maintenance or other obligations related to
122. the Property that the buyer will be responsible for? ☐ Yes ☐ No

124. **THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.**

125. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
126. (d) Are there any communication, power, wind, pipeline (utility or drainage), ☐ Yes ☐ No
or other utility rights of way/easement(s)? ☐ Yes ☐ No
127. (e) Are there any railroad or other transportation rights of way/easement(s)? ☐ Yes ☐ No
128. (f) Is there subdivision or other recorded covenants, conditions, or restrictions? ☐ Yes ☐ No
129. (g) Are there association requirements or restrictions? ☐ Yes ☐ No
130. (h) Is there a right of first refusal to purchase? ☐ Yes ☐ No
131. (i) Is the Property within the boundaries of a Native American reservation? ☐ Yes ☐ No
132. (j) Are there any Department of Natural Resources restrictions? ☐ Yes ☐ No
133. (k) Is the Property located in a watershed district? ☐ Yes ☐ No
134. (l) Is the Property enrolled in any federal, state, or local governmental programs ☐ Yes ☐ No
(e.g., conservation programs, CREP, CRP, EQIP, Green Acres, Managed Forest Land,
135. RIM, riparian buffers, Rural Preserve, SFIA, WRP/RIM-WRP, etc.)? ☐ Yes ☐ No
136. (m) Are there any USDA Wetland Determinations? ☐ Yes ☐ No
137. (n) Are there any USDA Highly Erodible Land Determinations? ☐ Yes ☐ No
138. (o) Are there any conservation practices installed (e.g., terracing, waterways, ☐ Yes ☐ No
control structures)? ☐ Yes ☐ No
139. (p) Are there any federal or state listed species? ☐ Plants ☐ Animals ☐ Yes ☐ No
140. (q) Are there any third parties which have an interest in the mineral rights? ☐ Yes ☐ No
141. (r) Is there any forfeiture or transfer of rights (e.g., mineral, timber, ☐ Yes ☐ No
development, etc.) ☐ Yes ☐ No
142. (s) Are there any historical registry restrictions? ☐ Yes ☐ No
143. (t) If any of the questions in Section C(1) are answered "Yes," please provide written copies of these
144. covenants, conditions, reservations, or restrictions if in your possession: _____
145. _____
146. _____
147. _____
148. _____
149. _____
150. _____
151. (2) Have you ever received notice from any person or authority as to any breach of any of these covenants, ☐ Yes ☐ No
152. conditions, reservations, or restrictions?
153. If "Yes," please explain: _____
154. _____
155. _____
156. (3) Is the Property currently rented? ☐ Yes ☐ No
157. If "Yes," is there a written lease? ☐ Yes ☐ No
158. If "Yes," please provide a copy of the lease if in your possession or provide information:
159. Lease start date: _____
160. Lease end date: _____
161. Number of acres leased: _____
162. Price/acre: _____
163. Terms of lease: _____
164. Renter's name: _____ Phone number: _____
165. May the renter be contacted for information on the Property? ☐ Yes ☐ No

167. THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.

168. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
169. (4) Is woodland leased for recreational purposes? ☐ Yes ☐ No
170. (5) Has a timber cruise been completed on woodland? ☐ Yes ☐ No
171. (6) Has timber been harvested in the past 25 years? ☐ Yes ☐ No
172. If "Yes," what species was harvested? _____
173. Was harvest monitored by a registered forester? ☐ Yes ☐ No
174. (7) Are there plans for a new road, expansion of an existing road, airport, trail,
175. affect by railroad, or other improvement that may affect this Property? ☐ Yes ☐ No
176. If "Yes," please explain: _____
177. _____
178. _____
179. (8) Are there any zoning violations, nonconforming uses, or unusual restrictions on the
180. Property that would affect future construction or remodeling? ☐ Yes ☐ No
181. **D. UTILITIES:** The following questions are to be answered to the best of Seller's knowledge.
182. (1) Have any percolation tests been performed? ☐ Yes ☐ No
183. When? _____ By whom? _____
184. Attach copies of results, if in your possession.
185. (2) Subsurface Sewage Treatment System Disclosure: (A subsurface sewage treatment system disclosure is
186. required by MN Statute 115.55.) (Check appropriate box.)
187. Seller ☐ DOES ☐ DOES NOT know of a subsurface sewage treatment system on or serving the above-described
(Check one.)
188. real Property. (If answer is **DOES**, and the system does not require a state permit, see Disclosure Statement:
189. Subsurface Sewage Treatment System.)
190. ☐ There is an abandoned subsurface sewage treatment system on the above-described real Property.
191. (See Disclosure Statement: Subsurface Sewage Treatment System.)
192. (3) Private Well Disclosure: (A well disclosure and Certificate are required by MN Statute 1031.235.)
193. (Check appropriate box(es).)
194. ☐ Seller does not know of any wells on the above-described real Property.
195. ☐ There are one or more wells located on the above-described real Property.
196. (See Disclosure Statement: Well.)
197. ☐ This Property is in a Special Well Construction Area.
198. ☐ There are wells serving the above-described Property that are not located on the Property.
199. (a) How many properties or residences does the shared well serve? _____
200. (b) Is there a maintenance agreement for the shared well? ☐ Yes ☐ No
201. If "Yes," what is the annual maintenance fee? \$ _____

MN:DS-VL-5 (8/21)

203. THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.

204. Property located at 1702 Pennsylvania Ave Brainerd MN 56401

205. (4) Are any of the following presently existing within the Property:
- | | | |
|---|------------------------------|-----------------------------|
| 206. (a) connection to public water? | ☐ Yes | ☐ No |
| 207. (b) connection to public sewer? | ☐ Yes | ☐ No |
| 208. (c) connection to private water system off-property? | ☐ Yes | ☐ No |
| 209. (d) connection to electric utility? | ☐ Yes | ☐ No |
| 210. (e) connection to pipelines (natural gas, petroleum, other)? | ☐ Yes | ☐ No |
| 211. (f) connection to communication, power, or utility lines? | ☐ Yes | ☐ No |
| 212. (g) connection to telephone? | ☐ Yes | ☐ No |
| 213. (h) connection to fiber optic? | ☐ Yes | ☐ No |
| 214. (i) connection to cable? | ☐ Yes | ☐ No |

215. **E. ENVIRONMENTAL CONCERNS:** The following questions are to be answered to the best of Seller's knowledge.

216. (1) Are there any buried storage tanks or buried debris or waste on the Property? ☐ Yes ☐ No
217. If "Yes," give details: _____
218. _____
219. (2) Are there any hazardous or toxic substances or wastes in, on, or affecting ☐ Yes ☐ No
220. the Property?
221. If "Yes," give details: _____
222. _____
223. (3) Have any soil tests been performed? ☐ Yes ☐ No
224. When? _____ By whom? _____
225. Attach copies of results if in your possession.
226. (4) Are there any soil problems? ☐ Yes ☐ No
227. If "Yes," give details: _____
228. _____
229. (5) Are there any dead or diseased trees? ☐ Yes ☐ No
230. If "Yes," give details: _____
231. (6) Are there any insect/animal/pest infestations? ☐ Yes ☐ No
232. If "Yes," give details: _____
233. _____
234. (7) Are there any animal burial pits? ☐ Yes ☐ No
235. If "Yes," give details: _____
236. (8) Are there any unused wells or other potential environmental hazards (e.g., fuel or ☐ Yes ☐ No
237. chemical storage tanks, contaminated soil or water) on the land?
238. If "Yes," give details: _____
239. _____
240. (9) Did the land at one time abut or was located in close proximity to a gas station, refuse ☐ Yes ☐ No
241. disposal site, toxic substance storage site, junk yard, or other pollution situation?
242. If "Yes," give details: _____
243. _____

245. THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.

246. Property located at 1702 Pennsylvania Ave Brainerd MN 56401
247. (10) Is the Property located in or near an agricultural zone? ☐ Yes ☐ No
248. If "Yes," the Property may be subjected to normal and accepted agricultural practices and operations
249. including, but not limited to, noise; dust; day and nighttime operation of farm machinery; the raising and
250. keeping of livestock; and the storage and application of manure, fertilizers, soil amendments, herbicides
251. and pesticides associated with normal agricultural operations.
252. (11) Are there any landfills or waste disposal sites within two (2) miles of the Property? ☐ Yes ☐ No
253. If "Yes," give details: _____
254. _____
255. (12) Is there any government sponsored clean-up of the Property? ☐ Yes ☐ No
256. If "Yes," give details: _____
257. _____
258. (13) Are there currently, or have previously been, any orders issued on the Property by any governmental authority
259. ordering the remediation of a public health nuisance on the Property? ☐ Yes ☐ No
260. If "Yes," Seller certifies that all orders ☐ HAVE ☐ HAVE NOT been vacated.
----- (Check one) -----
261. (14) Other: _____
262. _____

263. F. RADON DISCLOSURE: (The following Seller disclosure satisfies MN Statute 144.496.)

264. **RADON WARNING STATEMENT:** The Minnesota Department of Health strongly recommends that ALL

265. homebuyers have an indoor radon test performed prior to purchase or taking occupancy, and recommends

266. having the radon levels mitigated if elevated radon concentrations are found. Elevated radon concentrations can

267. easily be reduced by a qualified, certified, or licensed, if applicable, radon mitigator.

268. Every buyer of any interest in residential real property is notified that the property may present exposure to

269. dangerous levels of indoor radon gas that may place occupants at risk of developing radon-induced lung cancer.

270. Radon, a Class A human carcinogen, is the leading cause of lung cancer in nonsmokers and the second leading

271. cause overall. The seller of any interest in residential real property is required to provide the buyer with any

272. information on radon test results of the dwelling.

273. **RADON IN REAL ESTATE:** By signing this Statement, Buyer hereby acknowledges receipt of the Minnesota

274. Department of Health's publication entitled *Radon in Real Estate Transactions*, which is attached hereto and

275. can be found at www.health.state.mn.us/communities/environment/air/radon/radonre.html.

276. A seller who fails to disclose the information required under MN Statute 144.496, and is aware of material facts

277. pertaining to radon concentrations in the Property, is liable to the Buyer. A buyer who is injured by a violation of MN

278. Statute 144.496 may bring a civil action and recover damages and receive other equitable relief as determined by

279. the court. Any such action must be commenced within two years after the date on which the buyer closed the

280. purchase or transfer of the real Property.

281. **SELLER'S REPRESENTATIONS:** The following are representations made by Seller to the extent of Seller's actual

282. knowledge.

283. (a) Radon test(s) ☐ HAVE ☐ HAVE NOT occurred on the Property.
----- (Check one) -----
284. (b) Describe any known radon concentrations, mitigation, or remediation. **NOTE:** Seller shall attach the most
285. current records and reports pertaining to radon concentration within the dwelling:

286. _____

287. _____

289. **THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.**

290. Property located at 1702 Pennsylvania Ave Brainerd MN 56401

291. (c) There ☐ IS ☐ IS NOT a radon mitigation system currently installed on the Property.
----- (Check one.) -----

292. If "IS," Seller shall disclose, if known, information regarding the radon mitigation system, including system
293. description and documentation.

294.

295.

296. **EXCEPTIONS:** See Section O for exceptions to this disclosure requirement.

297. **G. PREFERENTIAL PROPERTY TAX TREATMENT:** Is the Property subject to any preferential

298. property tax status or any other credits affecting the Property (e.g., Exclusive Ag Covenant,
299. Green Acres, Managed Forest Land, Non-Profit Status, Rural Preserve, SFIA, etc.)?

☐ Yes

☐ No

☐ Yes

☐ No

300. If "Yes," would these terminate upon the sale of the Property?

301. Explain: _____

302. **H. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** Section 1445 of the Internal Revenue Code
303. provides that a transferee ("Buyer") of a United States real property interest must be notified in writing and must
304. withhold tax if the transferor ("Seller") is a foreign person and no exceptions from FIRPTA withholding apply.

305. Seller represents that Seller ☐ IS ☐ IS NOT a foreign person (i.e., a non-resident alien Individual, foreign corporation,
----- (Check one.) -----
306. foreign partnership, foreign trust, or foreign estate) for purposes of income taxation. This representation shall
307. survive the closing of any transaction involving the Property described herein.

308. **NOTE:** If the above answer is "IS," Buyer may be subject to income tax withholding in connection with the
309. transaction (unless the transaction is covered by an applicable exception to FIRPTA withholding). In
310. non-exempt transactions, Buyer may be liable for the tax if Buyer fails to withhold.

311. If the above answer is "IS NOT," Buyer may wish to obtain specific documentation from Seller ensuring
312. Buyer is exempt from the withholding requirements as prescribed under Section 1445 of the Internal
313. Revenue Code.

314. Due to the complexity and potential risks of failing to comply with FIRPTA, including Buyer's responsibility
315. for withholding the applicable tax, Buyer and Seller should seek appropriate legal and tax advice regarding
316. FIRPTA compliance, as the respective licensees representing or assisting either party will be unable to
317. assure either party whether the transaction is exempt from the FIRPTA withholding requirements.

318. **I. METHAMPHETAMINE PRODUCTION DISCLOSURE:**

319. (A methamphetamine production disclosure is required by MN Statute 152.0275, Subd. 2 (m).)

320. ☐ Seller is not aware of any methamphetamine production that has occurred on the Property.

321. ☐ Seller is aware that methamphetamine production has occurred on the Property.

322. (See Disclosure Statement: Methamphetamine Production.)

323. **J. NOTICE REGARDING AIRPORT ZONING REGULATIONS:** The Property may be in or near an airport safety zone
324. with zoning regulations adopted by the governing body that may affect the Property. Such zoning regulations are
325. filed with the county recorder in each county where the zoned area is located. If you would like to determine if
326. such zoning regulations affect the Property, you should contact the county recorder where the zoned area is
327. located.

328. **K. CEMETERY ACT:** MN Statute 307.08 prohibits any damage or illegal molestation of human remains, burials,
329. or cemeteries. A person who intentionally, willfully and knowingly destroys, mutilates, injures, disturbs or removes
330. human skeletal remains or human burial grounds is guilty of a felony.

331. Are you aware of any human remains, burials, or cemeteries located on the Property?

☐ Yes

☐ No

332. If "Yes," please explain: _____

333. All unidentified human remains or burials found outside of platted, recorded, or identified cemeteries and in
334. contexts which indicate antiquity greater than 50 years shall be dealt with according to the provisions of MN
335. Statute 307.08, Subd. 7.

337. THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.

338. Property located at 1702 Pennsylvania Ave Brainerd MN 56401

339. **L. NOTICE REGARDING PREDATORY OFFENDER INFORMATION:** Information regarding the predatory offender
340. registry and persons registered with the predatory offender registry under MN Statute 243.166 may be
341. obtained by contacting the local law enforcement offices in the community where the land is located or
342. the Minnesota Department of Corrections at (651) 361-7200, or from the Department of Corrections web
343. site at www.corr.state.mn.us.

344. **M. NOTICES/OTHER DEFECTS/MATERIAL FACTS:** The following questions are to be answered to the best of
345. Seller's knowledge.

346. **Notices:** Seller ☐ **HAS** ☐ **HAS NOT** received a notice regarding any proposed improvement project from any
(Check one.)
347. assessing authorities, the costs of which project may be assessed against the Property. If "HAS," please attach
348. and/or explain: _____

349. _____
350. **Other Defects/Material Facts:** Are there any other material facts that could adversely and significantly affect an
351. ordinary buyer's use or enjoyment of the Property or any intended use of the Property? ☐ Yes ☐ No
352. If "Yes," explain: _____

353. _____
354. **N. MN STATUTES 513.52 THROUGH 513.60:**
355. **Exceptions:** The seller disclosure requirements of MN Statutes 513.52 through 513.60 **DO NOT** apply to

- 356. (1) real property that is not residential real property;
- 357. (2) a gratuitous transfer;
- 358. (3) a transfer pursuant to a court order;
- 359. (4) a transfer to a government or governmental agency;
- 360. (5) a transfer by foreclosure or deed in lieu of foreclosure;
- 361. (6) a transfer to heirs or devisees of a decedent;
- 362. (7) a transfer from a co-tenant to one or more other co-tenants;
- 363. (8) a transfer made to a spouse, parent, grandparent, child, or grandchild of Seller;
- 364. (9) a transfer between spouses resulting from a decree of marriage dissolution or from a property
365. agreement incidental to that decree;
- 366. (10) a transfer of newly constructed residential property that has not been inhabited;
- 367. (11) an option to purchase a unit in a common interest community, until exercised;
- 368. (12) a transfer to a person who controls or is controlled by the grantor as those terms are defined with
369. respect to a declarant under section 515B.1-103, clause (2);
- 370. (13) a transfer to a tenant who is in possession of the residential real property; or
- 371. (14) a transfer of special declarant rights under section 515B.3-104.

372. **MN STATUTES 144.496: RADON AWARENESS ACT**

373. The seller disclosure requirements of MN Statute 144.496 DO NOT apply to (1)-(9) and (11)-(14) above. Sellers
374. of newly constructed residential property must comply with the disclosure requirements of MN Statute 144.496.

375. **Waiver:** The written disclosure required under sections 513.52 to 513.60 may be waived if Seller and the
376. prospective Buyer agree in writing. Waiver of the disclosure required under sections 513.52 to 513.60 does not
377. waive, limit, or abridge any obligation for seller disclosure created by any other law.

378. **No Duty to Disclose**

- 379. **A.** There is no duty to disclose the fact that the Property
- 380. (1) is or was occupied by an owner or occupant who is or was suspected to be infected with Human
- 381. Immunodeficiency Virus or diagnosed with Acquired Immunodeficiency Syndrome;
- 382. (2) was the site of a suicide, accidental death, natural death, or perceived paranormal activity; or
- 383. (3) is located in a neighborhood containing any adult family home, community-based residential facility,
- 384. or nursing home.

386. THE INFORMATION DISCLOSED IS GIVEN TO THE BEST OF SELLER'S KNOWLEDGE.

387. Property located at 1702 Pennsylvania Ave Brainerd MN 56401

388. B. **Predatory Offenders.** There is no duty to disclose information regarding an offender who is required to
 399. register under MN Statute 243.166 or about whom notification is made under that section, if Seller, in a
 400. timely manner, provides a written notice that information about the predatory offender registry and
 401. persons registered with the registry may be obtained by contacting the local law enforcement agency
 402. where the property is located or the Department of Corrections.
 403. C. The provisions in paragraphs A and B do not create a duty to disclose any facts described in paragraphs
 404. A and B for property that is not residential property.
 405. D. **Inspections.**
 406. (1) Except as provided in paragraph (2), Seller is not required to disclose information relating to the real
 407. Property if a written report that discloses the information has been prepared by a qualified third party
 408. and provided to the prospective buyer. For purposes of this paragraph, "qualified third party" means
 409. a federal, state, or local governmental agency, or any person whom Seller or prospective buyer reasonably
 410. believes has the expertise necessary to meet the industry standards of practice for the type of
 411. inspection or investigation that has been conducted by the third party in order to prepare the written
 412. report.
 413. (2) Seller shall disclose to the prospective buyer material facts known by Seller that contradict any
 414. information included in a written report under paragraph (1) if a copy of the report is provided to Seller.

415. O. ADDITIONAL COMMENTS:

416. _____
 417. _____
 418. _____

419. P. SELLER'S STATEMENT: (To be signed at time of listing.)

420. Seller(s) hereby states the facts as stated above are true and accurate and authorizes any licensee(s)
 421. representing or assisting any party(ies) in this transaction to provide a copy of this Disclosure Statement to
 422. any person or entity in connection with any actual or anticipated sale of the Property. A seller may provide this
 423. Disclosure Statement to a real estate licensee representing or assisting a prospective buyer. The Disclosure
 424. Statement provided to the real estate licensee representing or assisting a prospective buyer is considered to have
 425. been provided to the prospective buyer. If this Disclosure Statement is provided to the real estate licensee
 426. representing or assisting the prospective buyer, the real estate licensee must provide a copy to the prospective
 427. buyer.

428. **Seller is obligated to continue to notify Buyer in writing of any facts that differ from the facts disclosed**
 429. **here (new or changed) of which Seller is aware that could adversely and significantly affect the Buyer's**
 430. **use or enjoyment of the Property or any intended use of the Property that occur up to the time of closing.**
 431. To disclose new or changed facts, please use the Amendment to Disclosure Statement form.

432. _____ (Date) _____ (Date)
 (Seller) Roberts Sand & Gravel (Date) (Seller)

433. Q. BUYER'S ACKNOWLEDGEMENT: (To be signed at time of purchase agreement.)

434. I/We, the Buyer(s) of the Property, acknowledge receipt of this Disclosure Statement: Vacant Land and agree
 435. that no representations regarding facts have been made other than those made above. This Disclosure Statement
 436. is not a warranty or guarantee of any kind by Seller or licensee representing or assisting any party in the
 437. transaction and is not a substitute for any inspections or warranties the party(ies) may wish to obtain.

438. The information disclosed is given to the best of Seller's knowledge.

439. _____ (Date) _____ (Date)
 (Buyer) City of Brainerd (Date) (Buyer)

440. **LISTING BROKER AND LICENSEES MAKE NO REPRESENTATIONS HERE AND ARE**
 441. **NOT RESPONSIBLE FOR ANY CONDITIONS EXISTING ON THE PROPERTY.**



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Authorization to Enter Into Agreements with BCA and The Center

☐ 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: 5 Minutes
Summary of Issue: The City Council authorized entering into agreements with Brainerd Community Action for events/community action programs and The Center for senior programs as required in the City Charter. The Council authorized the agreements be for a period of 5 years for 1.5% of the previous year's levy as indicated in the Charter.	
Alternatives, Options, Effects on Others/Comments: 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. The City released Request for Proposal's (RFP) and received one proposal for events from Brainerd Community Action; and, two proposals for senior citizen programs/organizations from The Center and Be A Pal.	
Recommended Action/Motion: Authorize agreements with Brainerd Community Action and Lakes Area Senior Activity Center, Inc. for a 5-year period for 1.5% of the previous years levy per the City Charter.	
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 for senior services and community action/events.	

AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2022 by and between the CITY OF BRAINERD, a municipal corporation, hereinafter referred to as the CITY, and COMMUNITY ACTION COUNCIL OF CROW WING COUNTY, INC., DBA BRAINERD COMMUNITY ACTION, a non-profit corporation, hereinafter referred to as BRAINERD COMMUNITY ACTION.

WHEREAS, pursuant to the City Charter, tax revenues in the amount of 1.5% of the previous year's total City levy are levied upon the taxable property of the CITY to provide community action programs and events within the city limits of Brainerd; and

WHEREAS, BRAINERD COMMUNITY ACTION has been operating community action programs on behalf of the citizens of Brainerd and Crow Wing County for many years; and

WHEREAS, the Council of the CITY deems it advisable to utilize the funds from the said tax levy to support the programs operated by BRAINERD COMMUNITY ACTION; and

WHEREAS, BRAINERD COMMUNITY ACTION wishes to obtain the funds in order to carry out its programs within the City.

NOW, THEREFORE, it is mutually agreed between the parties hereto as follows:

1. BRAINERD COMMUNITY ACTION shall continue to provide community action programs for Brainerd citizens consistent with its statutory authority. In furtherance thereof:
 - a. BRAINERD COMMUNITY ACTION Board of Directors shall employ an Executive Director to develop and maintain community action programs.
 - b. BRAINERD COMMUNITY ACTION shall, on or before December 31 of each year, present and submit an annual report to the City Council containing at least the following:
 - i. A report detailing how BRAINERD COMMUNITY ACTION spent the funds provided by the City in the current calendar year;
 - ii. An adopted budget for the following year; and
 - iii. A description of proposed projects and activities to be undertaken in the following year.
2. BRAINERD COMMUNITY ACTION shall have a City Council member as a non-voting liaison member of its board.
3. The CITY shall make monthly payments to BRAINERD COMMUNITY ACTION from the funds levied pursuant to the City Charter. Said payments are contingent upon the CITY'S receipt of the budget, annual report, and description of proposed projects and activities.
4. The term of this AGREEMENT is five years from the latest date of execution.
5. This Agreement may not be modified except in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures.

CITY OF BRAINERD

COMMUNITY ACTION COUNCIL OF CROW WING
COUNTY INC., DBA BRAINERD COMMUNITY
ACTION

BY _____
MAYOR

BY _____
PRESIDENT

BY _____
CITY ADMINISTRATOR

BY _____
EXECUTIVE DIRECTOR

AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2022 by and between the CITY OF BRAINERD, a municipal corporation, hereinafter referred to as the CITY, and "Lakes Area Senior Activity Center, Inc.", a non-profit corporation, hereinafter referred to as THE CENTER .

WHEREAS, pursuant to the City Charter, tax revenues in the amount of 1.5% of the previous year's total City levy are levied upon the taxable property of the CITY 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; and

WHEREAS, THE CENTER has been operating a non-profit corporation on behalf of the senior citizens within the City of Brainerd for many years; and

WHEREAS, the Council of the CITY reviewed the proposal submitted by THE CENTER and deems it eligible to utilize the funds from the said tax levy in support of the programs operated by THE CENTER; and

WHEREAS, THE CENTER wishes to obtain the funds in order to carry out its programs.

NOW, THEREFORE, it is mutually agreed between the parties hereto as follows:

1. THE CENTER will continue to provide a program for the senior citizens of the CITY and surrounding area. In furtherance thereof:
 - a. THE CENTER Board of Directors will employ an Executive Director to develop and maintain a program for seniors 55 and older.
 - a. THE CENTER shall, on or before December 31 of each year, submit an annual report to the City Council containing at least the following:
 - i. A report detailing how THE CENTER spent the funds provided by the City in the current calendar year;
 - ii. An adopted budget for the following year; and
 - iii. A description of proposed projects and activities to be undertaken in the following year.
2. THE CENTER shall have a City Council member as a non-voting liaison member of the Board.
3. The CITY shall make payments to THE CENTER from the funds levied pursuant to the City Charter. Said payments are contingent upon the CITY'S receipt of the budget, annual report, and description of proposed projects and activities.
4. The term of this AGREEMENT is five years from the latest date of execution.
5. This Agreement may not be modified except in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures.

CITY OF BRAINERD

LAKES AREA SENIOR ACTIVITY CENTER

BY _____
MAYOR

BY _____
PRESIDENT

BY _____
CITY ADMINISTRATOR

BY _____
EXECUTIVE DIRECTOR



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Final Reading & Public Hearing - 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: The City Council conducted the first reading of Proposed Ordinance No. 1524 on March 21.	
Recommended Action/Motion: 1) Motion to conduct the final 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. 2) Conduct the public hearing for Proposed Ordinance No. 1524. 3) Motion to adopt Proposed Ordinance No. 1524, an ordinance amending Section 320 of the City Code.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 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 – _____

NOTICE OF HEARING

The City of Brainerd City Council will be conducting public hearings to consider the following proposed ordinances:

- Proposed Ordinance No. 1524, amending City Code Section 320: Administrative Citations.
- Proposed Ordinance No. 1525, replacing City Code Section 425: Rental Housing Maintenance Code.
- Proposed Ordinance No. 1526, replacing City Code Section 450: Property Maintenance Code.

The Public Hearings will be conducted by the City Council at 7:30 p.m. Monday, April 4, 2022, in the City Hall Council Chambers, 501 Laurel Street, Brainerd.

Copies of these proposed ordinances may be obtained at City Hall.

The public is invited to attend the hearings to offer input regarding any of these proposed ordinances. Any individual needing special accommodations please call (218) 828-2307.

Dated this 21st day of March 2022

Publication Date: March 23, 2022



David C. Chanski, MPA
Community Development Director



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Final Reading & Public Hearing - 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. The Council conducted the first reading of Proposed Ordinance No. 1525 on March 21.	
Recommended Action/Motion: 1) Motion to conduct the final reading of Proposed Ordinance No. 1525, an ordinance replacing 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. 2) Conduct public hearing on Proposed Ordinance No. 1525 3) Motion to adopt Proposed Ordinance No. 1525, an ordinance replacing Section 425 of the City Code.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 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

NOTICE OF HEARING

The City of Brainerd City Council will be conducting public hearings to consider the following proposed ordinances:

- Proposed Ordinance No. 1524, amending City Code Section 320: Administrative Citations.
- Proposed Ordinance No. 1525, replacing City Code Section 425: Rental Housing Maintenance Code.
- Proposed Ordinance No. 1526, replacing City Code Section 450: Property Maintenance Code.

The Public Hearings will be conducted by the City Council at 7:30 p.m. Monday, April 4, 2022, in the City Hall Council Chambers, 501 Laurel Street, Brainerd.

Copies of these proposed ordinances may be obtained at City Hall.

The public is invited to attend the hearings to offer input regarding any of these proposed ordinances. Any individual needing special accommodations please call (218) 828-2307.

Dated this 21st day of March 2022

Publication Date: March 23, 2022



David C. Chanski, MPA
Community Development Director



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Final Reading & Public Hearing - 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. The City Council conducted the first reading of Proposed Ordinance No. 1526 on March 21.	
Recommended Action/Motion: 1) Motion to conduct the final reading of Proposed Ordinance No. 1526, an ordinance replacing 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. 2) Conduct public hearing on Proposed Ordinance No. 1526. 3) Motion to adopt Proposed Ordinance No. 1526, an ordinance replacing Section 450 of the City Code.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 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

NOTICE OF HEARING

The City of Brainerd City Council will be conducting public hearings to consider the following proposed ordinances:

- Proposed Ordinance No. 1524, amending City Code Section 320: Administrative Citations.
- Proposed Ordinance No. 1525, replacing City Code Section 425: Rental Housing Maintenance Code.
- Proposed Ordinance No. 1526, replacing City Code Section 450: Property Maintenance Code.

The Public Hearings will be conducted by the City Council at 7:30 p.m. Monday, April 4, 2022, in the City Hall Council Chambers, 501 Laurel Street, Brainerd.

Copies of these proposed ordinances may be obtained at City Hall.

The public is invited to attend the hearings to offer input regarding any of these proposed ordinances. Any individual needing special accommodations please call (218) 828-2307.

Dated this 21st day of March 2022

Publication Date: March 23, 2022



David C. Chanski, MPA
Community Development Director



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Final Reading and Public Comment - 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 conducted the Public Hearing on the proposed zoning code during their meeting on March 16 and unanimously recommended adoption of the proposed zoning code through Proposed Ordinance No. 1527. The City Council conducted the first reading of Proposed Ordinance No. 1527 of March 21. The proposed zoning code was made available on the front page of the City's website, and, per the City Council's request, a notice of public comment was issued to inform the public that the City Council will be taking public comment on Proposed Ordinance No. 1527 during the April 4 Council Meeting.	
Recommended Action/Motion: 1) Motion to conduct the final reading of Proposed Ordinance No. 1527, an ordinance replacing Section 515 of the City Code and the 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. 2) Conduct public comment on Proposed Ordinance No. 1527. 3) Motion to adopt Proposed Ordinance No. 1527, an ordinance replacing Section 515 of the City Code and the Zoning Map.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 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.

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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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.

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515-2-4 Rural Living Zoning Districts (RL-1 and RL-2)

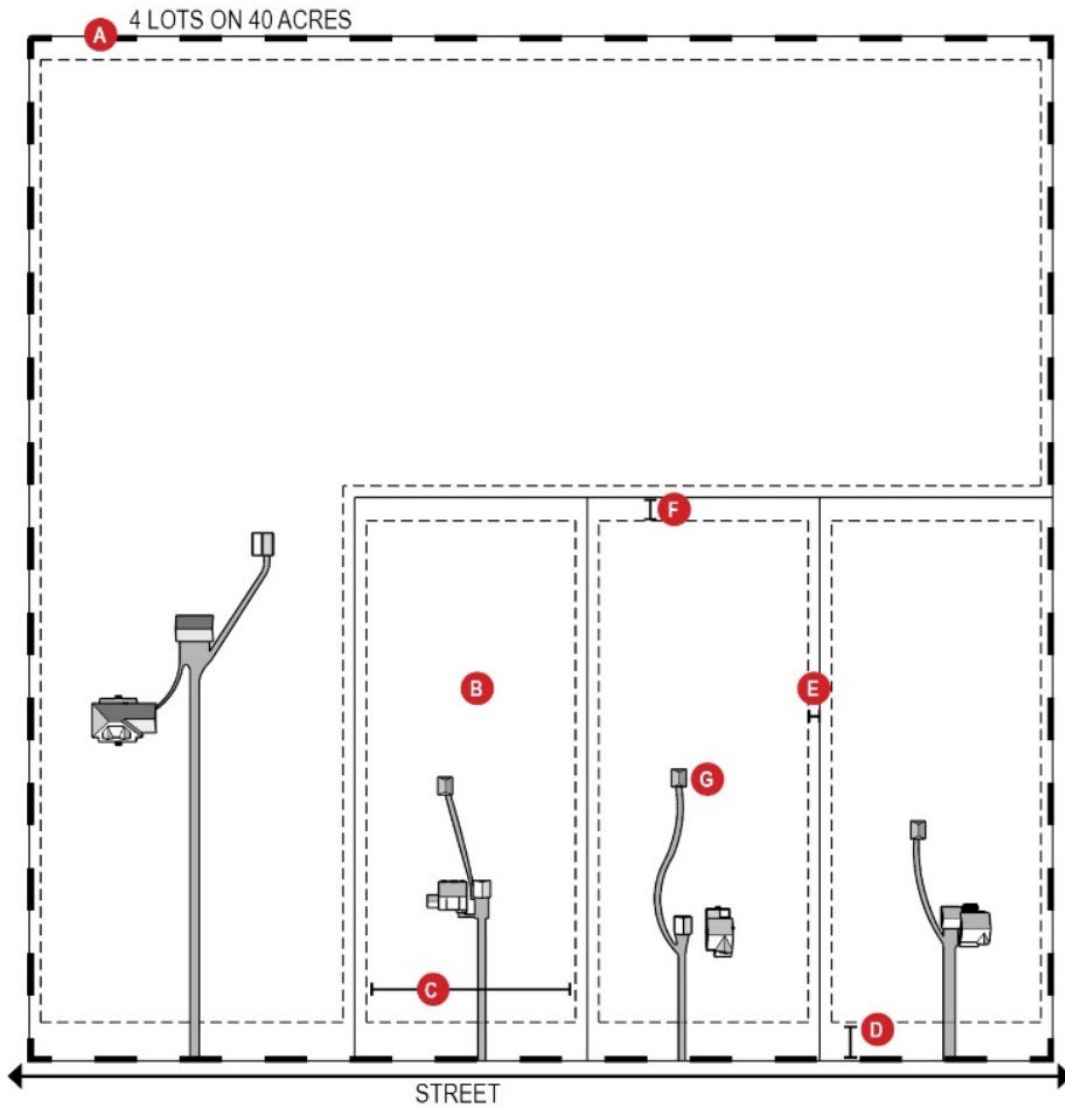
- A. **Purpose of Rural Living Zoning Districts.** The RL Districts are intended for areas where Urban Services are not presently available. Lands zoned RL-1 do not currently have Urban Services, but future subdivision may occur when the expansion of Urban Services is economical. Lands zoned RL-2 are 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)

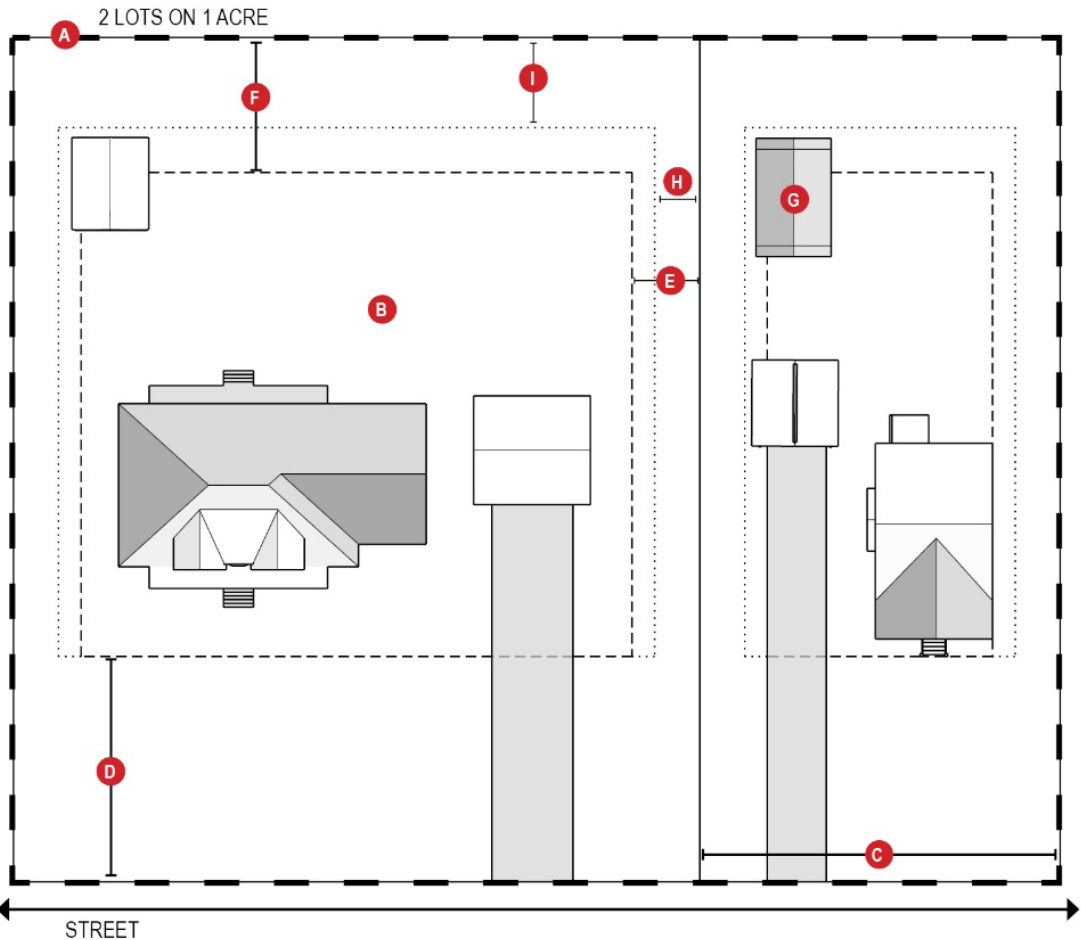
- A. **Purpose of Garden Living Zoning District.** The GL Zoning District is intended for areas where Urban Services are available, and lots and parcels are served by public water, sewer, stormwater, streets and other public infrastructure. Lands zoned Garden Living are predominantly developed with single-family 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)

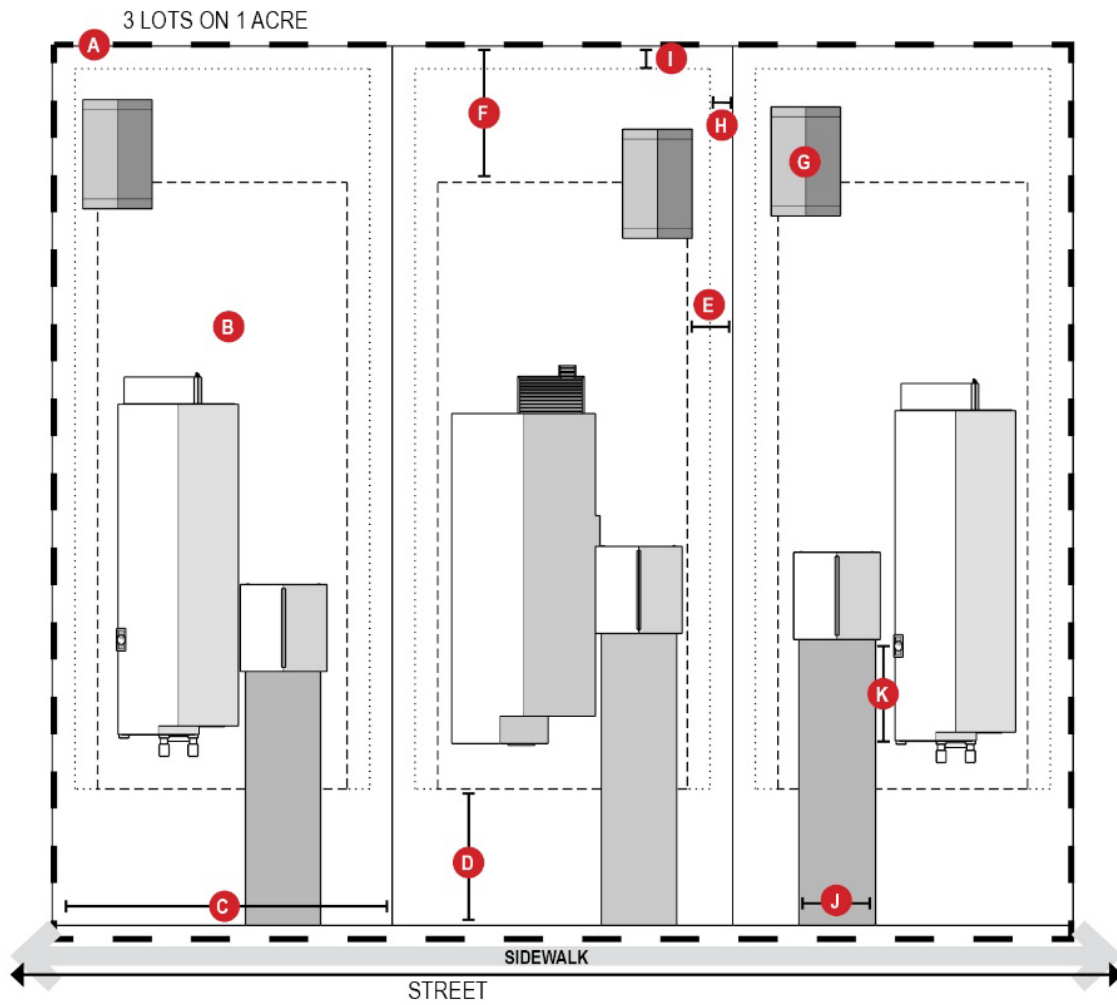
- A. **Purpose of Contemporary Neighborhood 1 Zoning District.** The purpose of the CN-1 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Lots in this District are typically developed with front-loaded garages, with larger private yard 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)

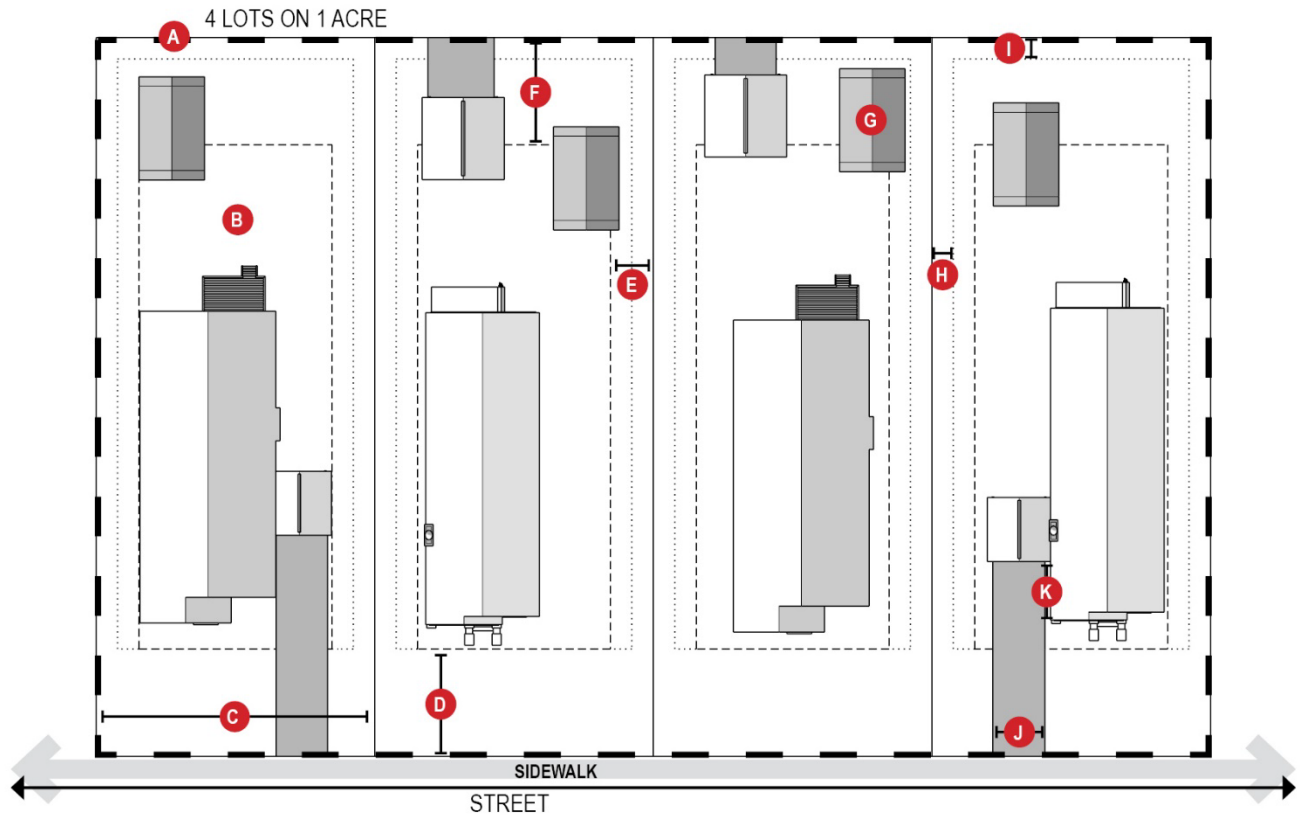
- A. **Purpose of Contemporary Neighborhood 2 Zoning District.** The CN-2 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Some single-family attached and multi-family uses may be present woven throughout this District. Lots in this 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)

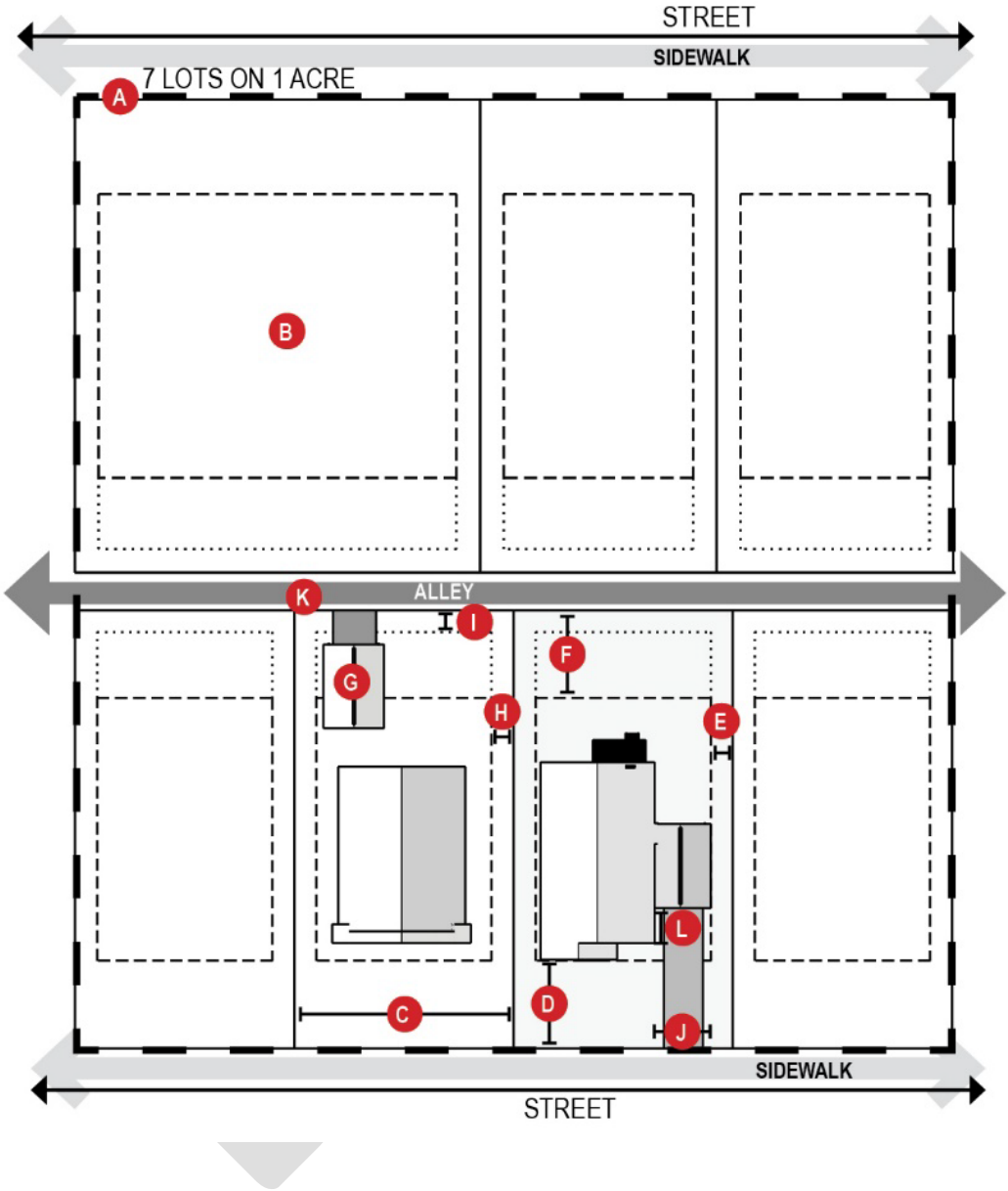
- A. **Purpose of Traditional Neighborhood 1 Zoning District.** The TN-1 Zoning District is intended to provide for a compact, pedestrian-oriented mix of residential uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports future development or redevelopment 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)

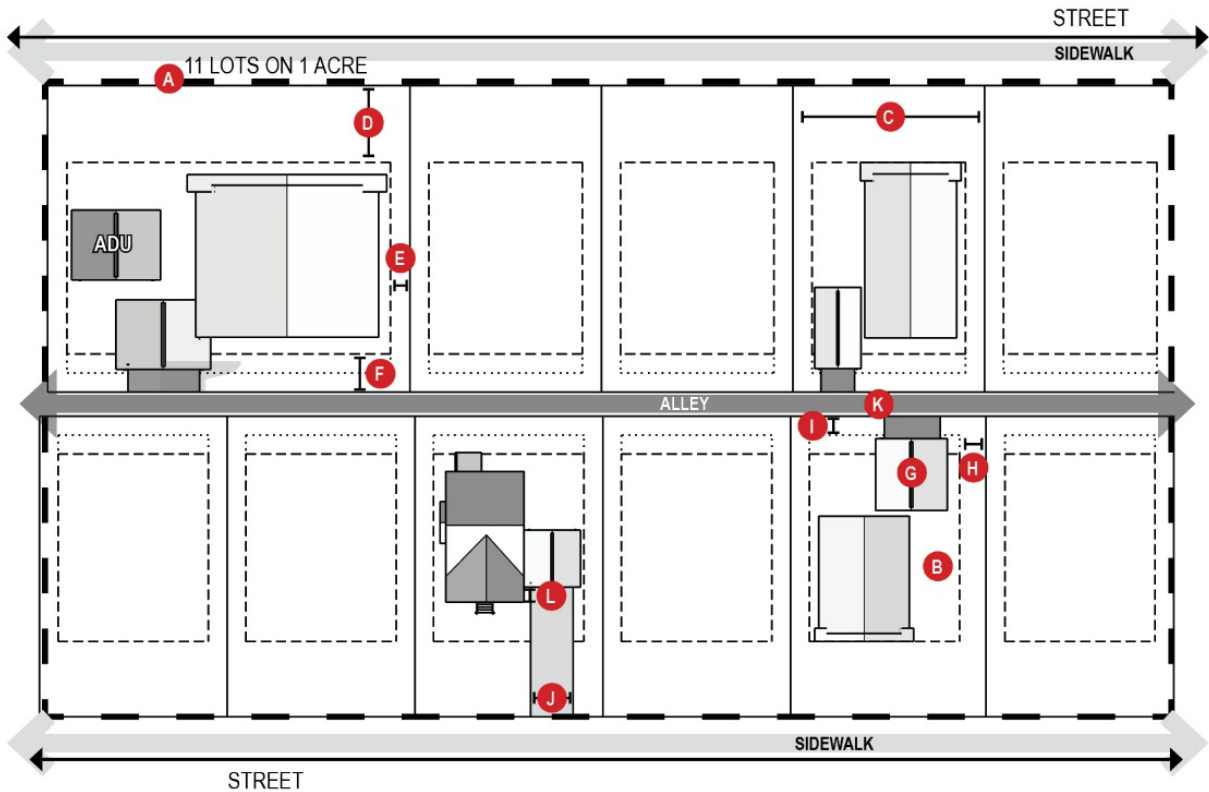
- A. **Purpose of Traditional Neighborhood 2 Zoning District.** The TN-2 Zoning District is intended to provide for compact, pedestrian-oriented mix of residential and neighborhood-serving commercial uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports 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.

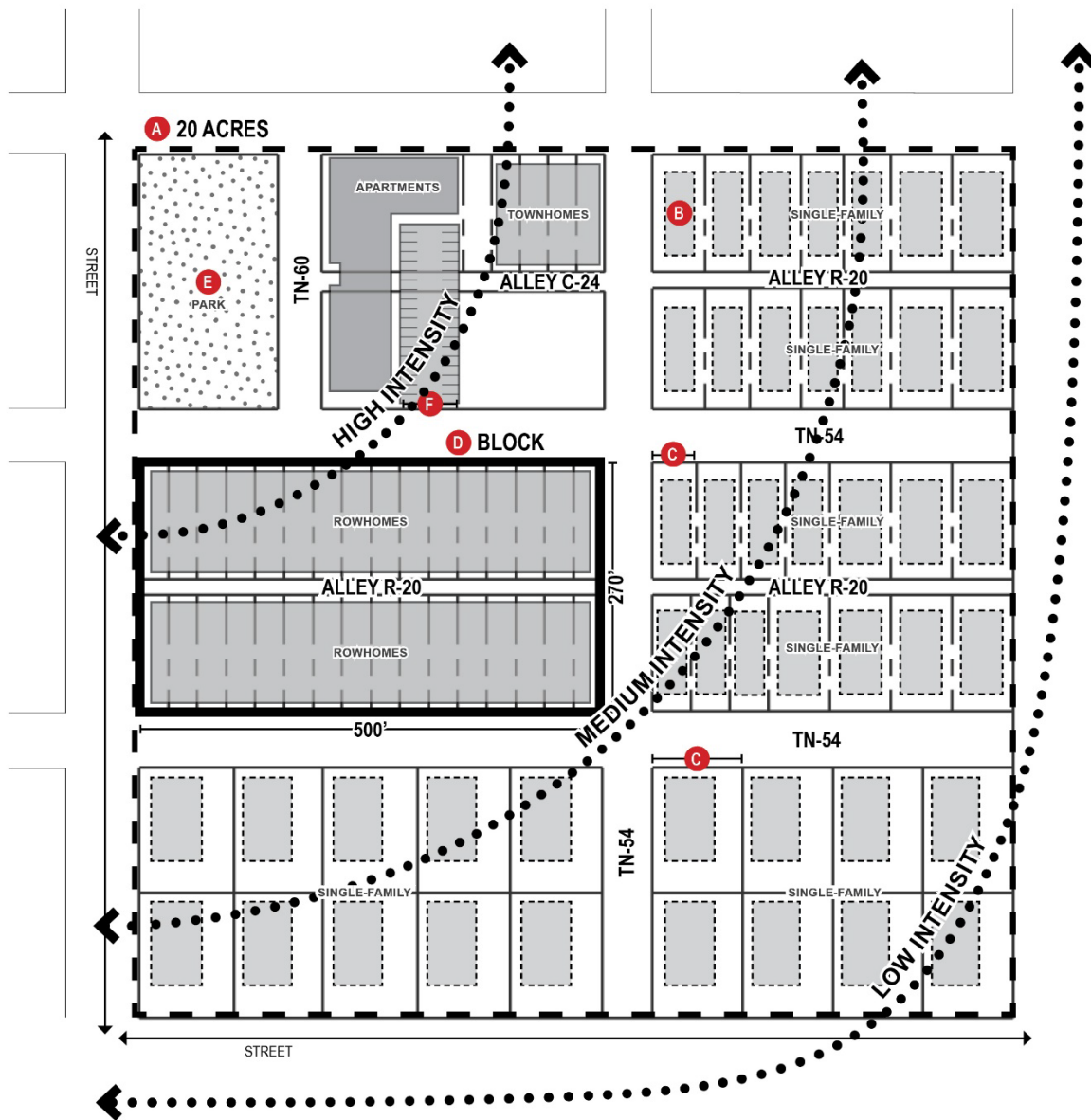
- a. Lots must have minimum and maximum widths according to Table [515-2-10.1]
- b. Each lot must have a primary frontage along a vehicular thoroughfare, except up to 20% of the parcels in a Regulating Plan may front a civic space or pedestrian passage.
- c. Where lots have multiple frontages, one frontage 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

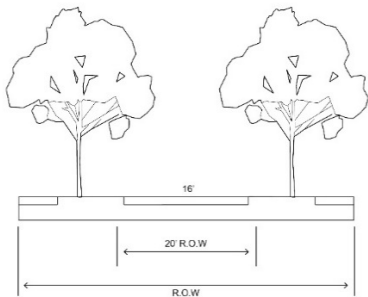


Figure 515-2-10.3. TN-3 Commercial Alley C-24

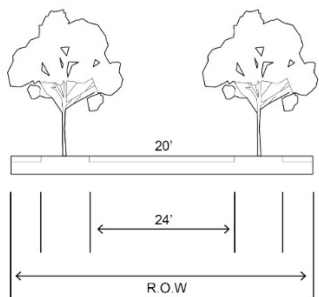


Figure 515-2-10.4. TN-3 Local Street TN-54 Parking on One Side on Two Sides.

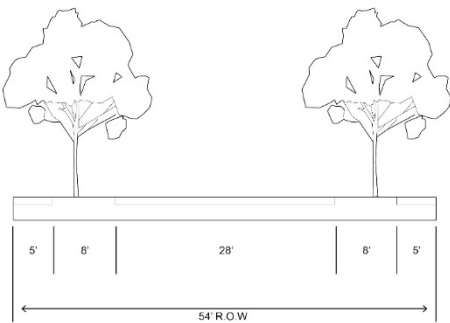


Figure 515-2-10.5. TN-3 Local Street TN-60 Parking

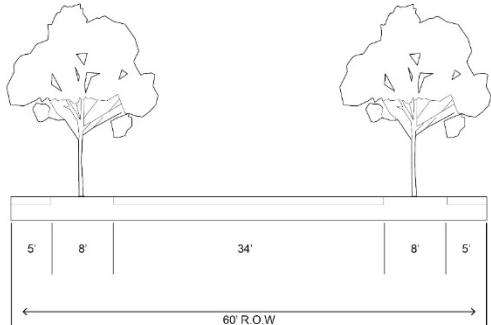
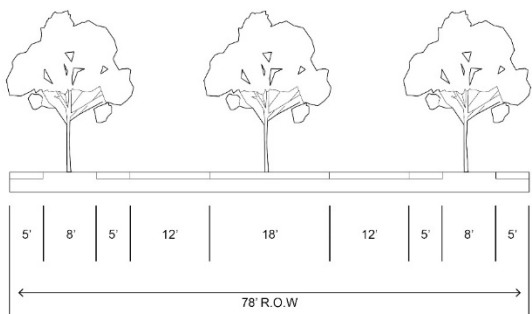


Figure 515-2-10.6. TN-3 Traditional Parkway TP-78 With Dedicated Bike Lane



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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

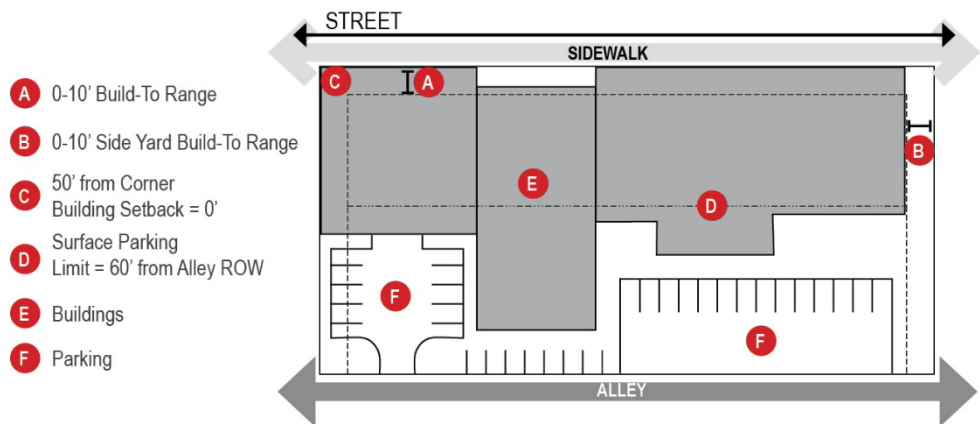


Figure 515-2-11.2. TC District Frontage Overlay

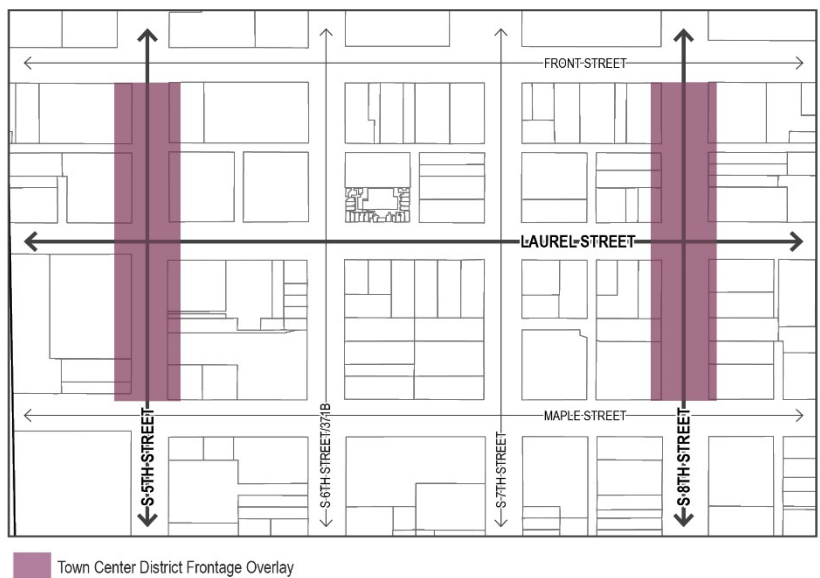
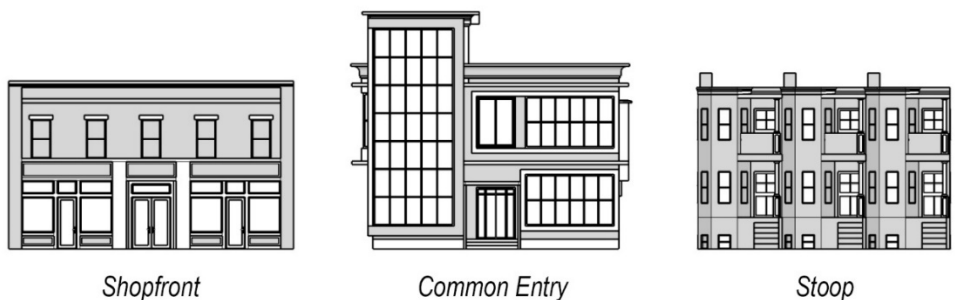


Figure 515-2-11.3. Example of TC Shopfront, Common Entry and Stoop Building Types



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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) Density (maximum)	Not applicable 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

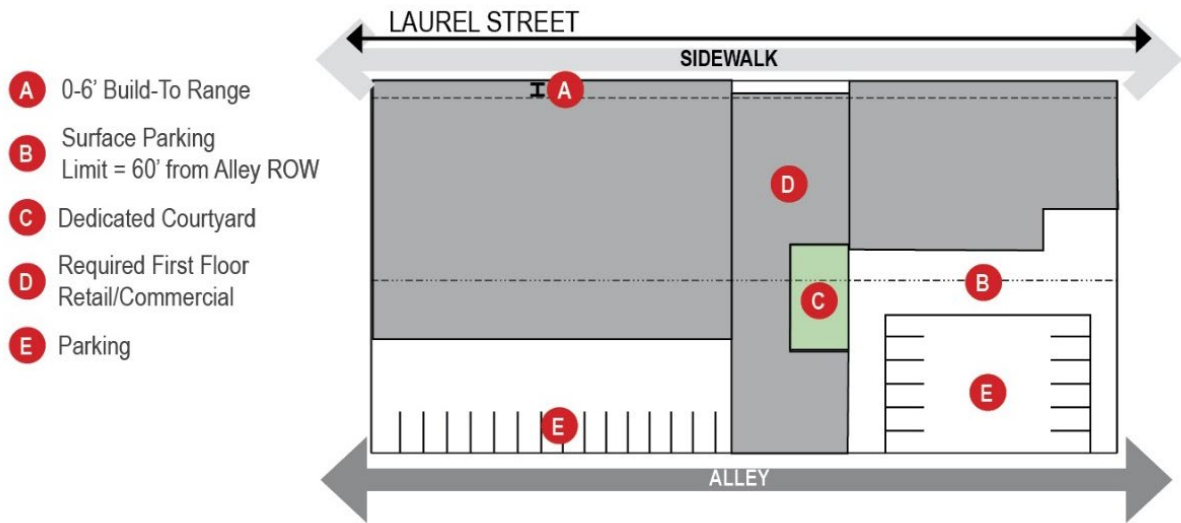
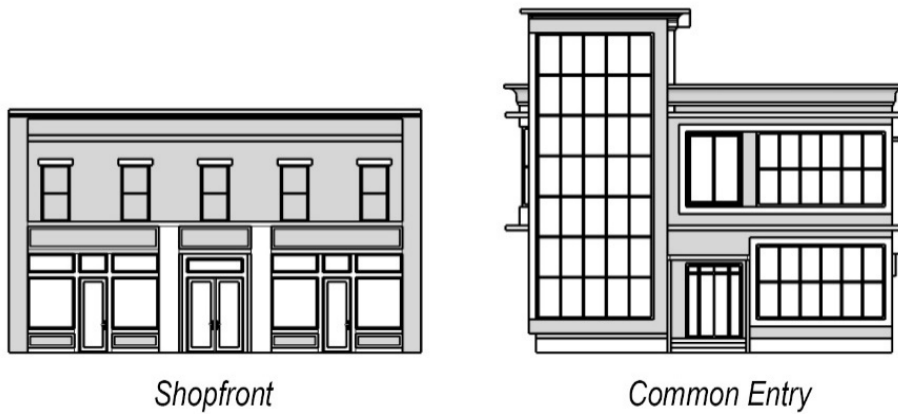


Figure 515-2-12.2. MS Example of Shopfront and Common Entry Building Types



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515-2-13 General Commercial (GC)

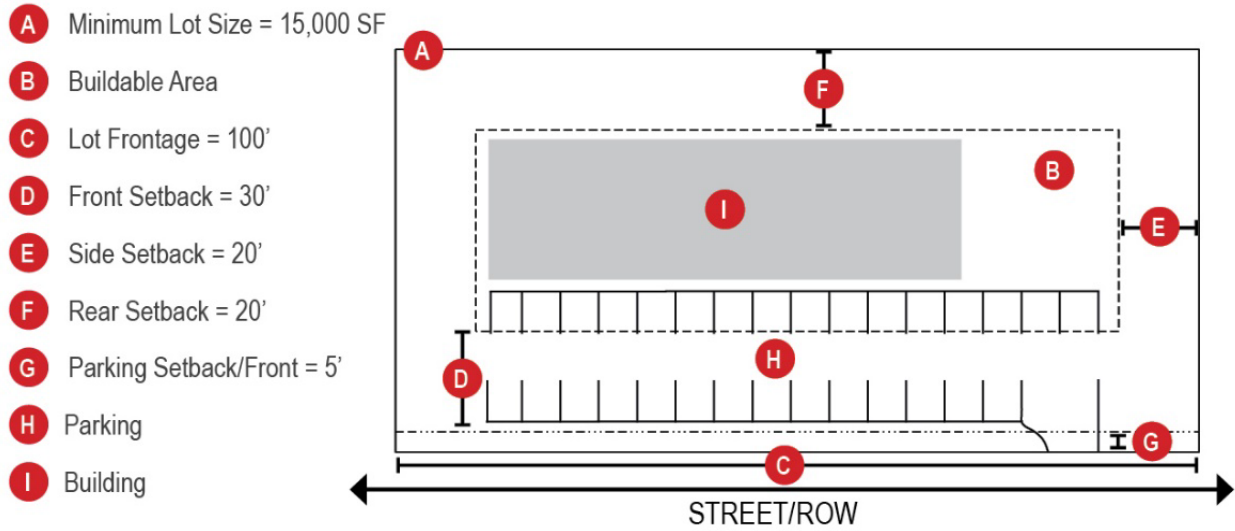
- A. **Purpose of General Commercial Zoning District.** The purpose of the GC District is to allow more intensive commercial uses that require the primary street network for access and circulation.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **GC Zoning District Dimensional Standards.** 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)

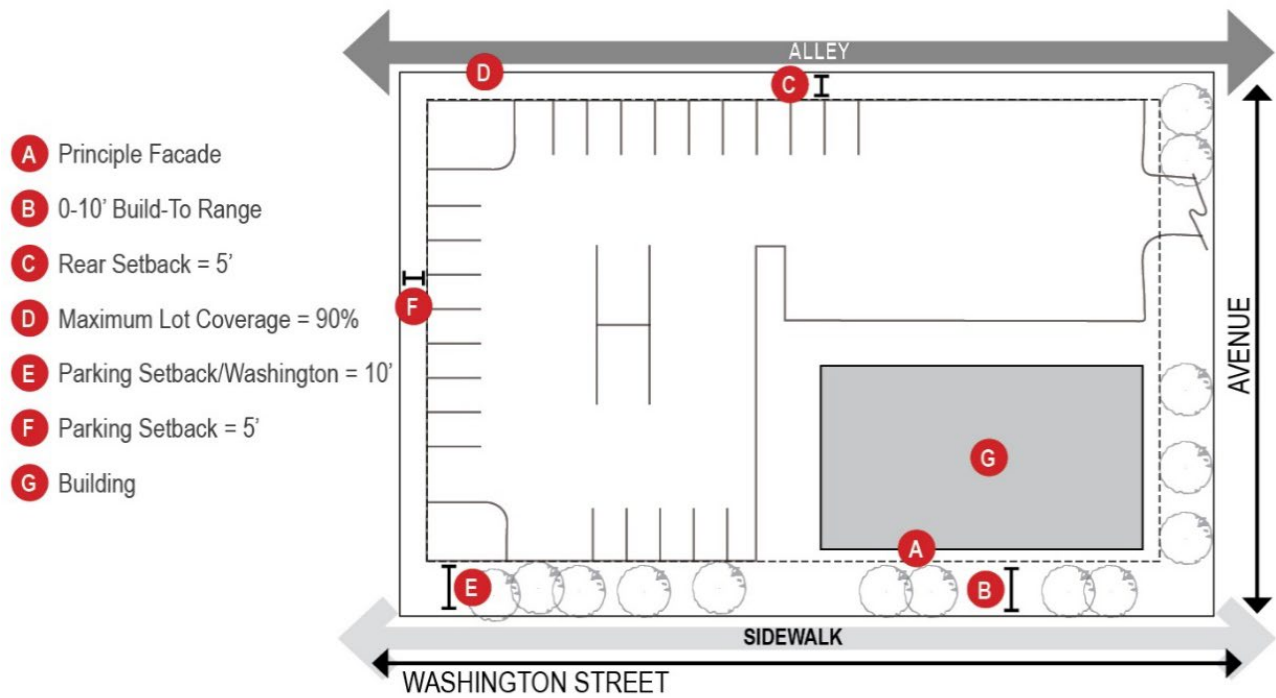
- A. **Purpose of Commercial Corridor Zoning District.** The purpose and intent of the CC District is to provide zoning regulation flexibility to permit development consistent with land use patterns along the Washington Street corridor from the river to 6th Avenue NE that support walkable development 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)

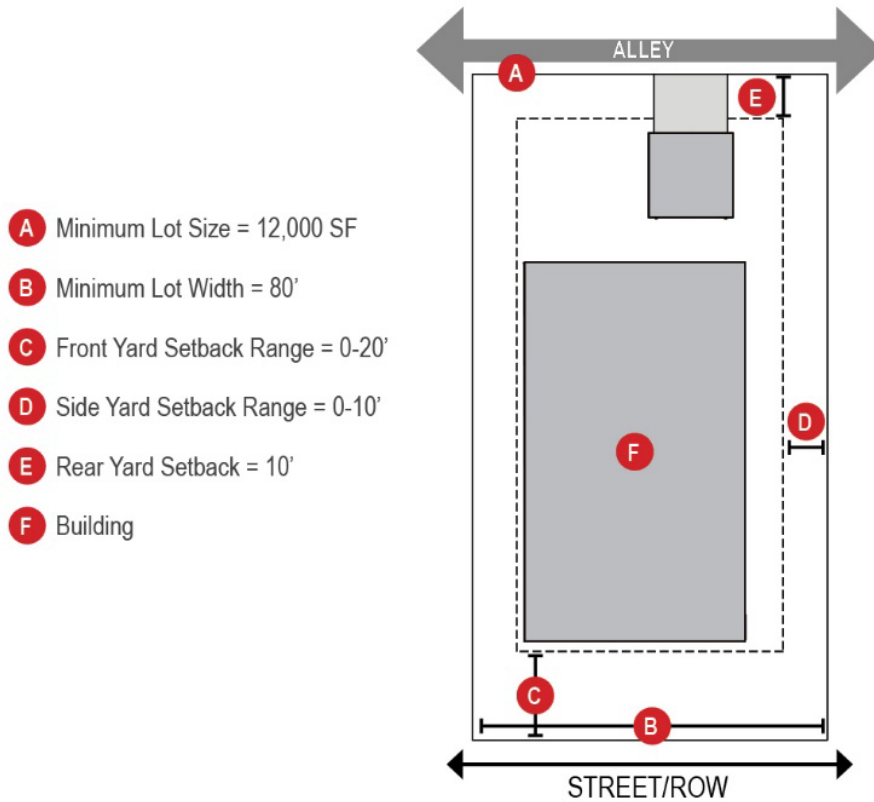
- A. **Purpose of Makers & Employment Zoning District.** The purpose and intent of the ME Zoning District is to provide for the establishment of small start-ups, incubator and craft/maker businesses that may be appropriate in smaller buildings or on smaller parcels. This District may also incorporate 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)

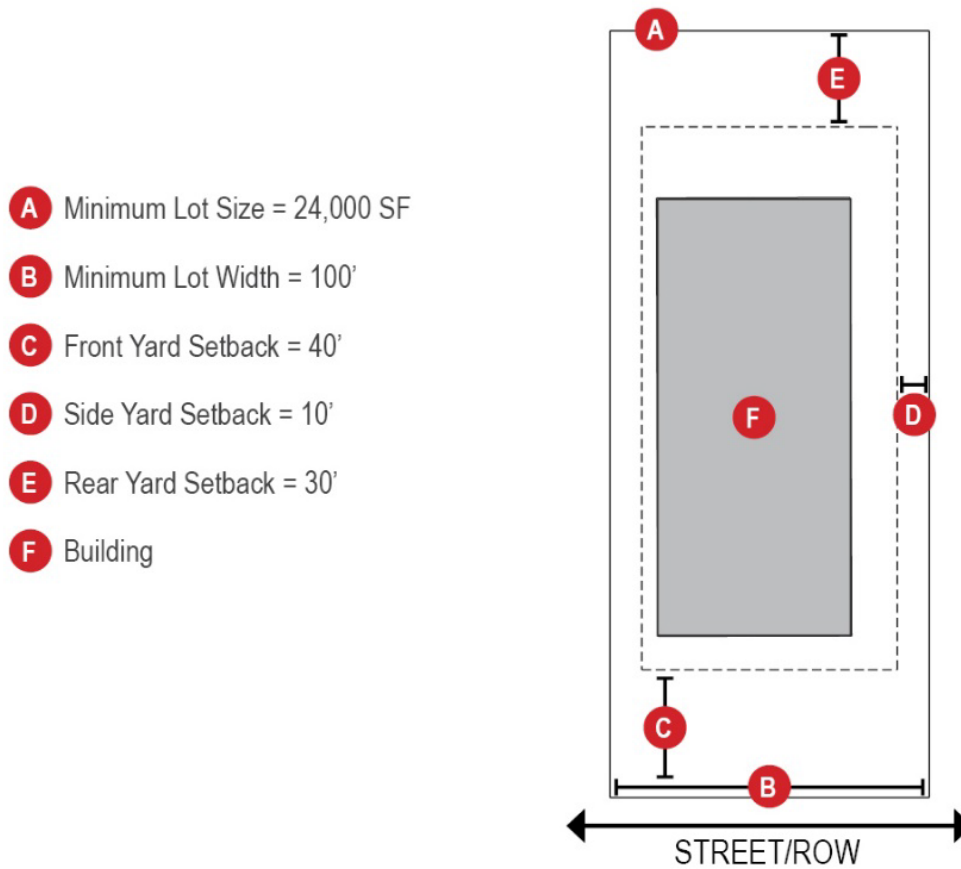
- A. **Purpose of General Industrial Zoning District.** The purpose of the GI Zoning District is to provide for the establishment of heavy industry and manufacturing development and use which because of the nature of the product or character of activity, requires isolation from residential and commercial 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.
5. Operation.

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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.
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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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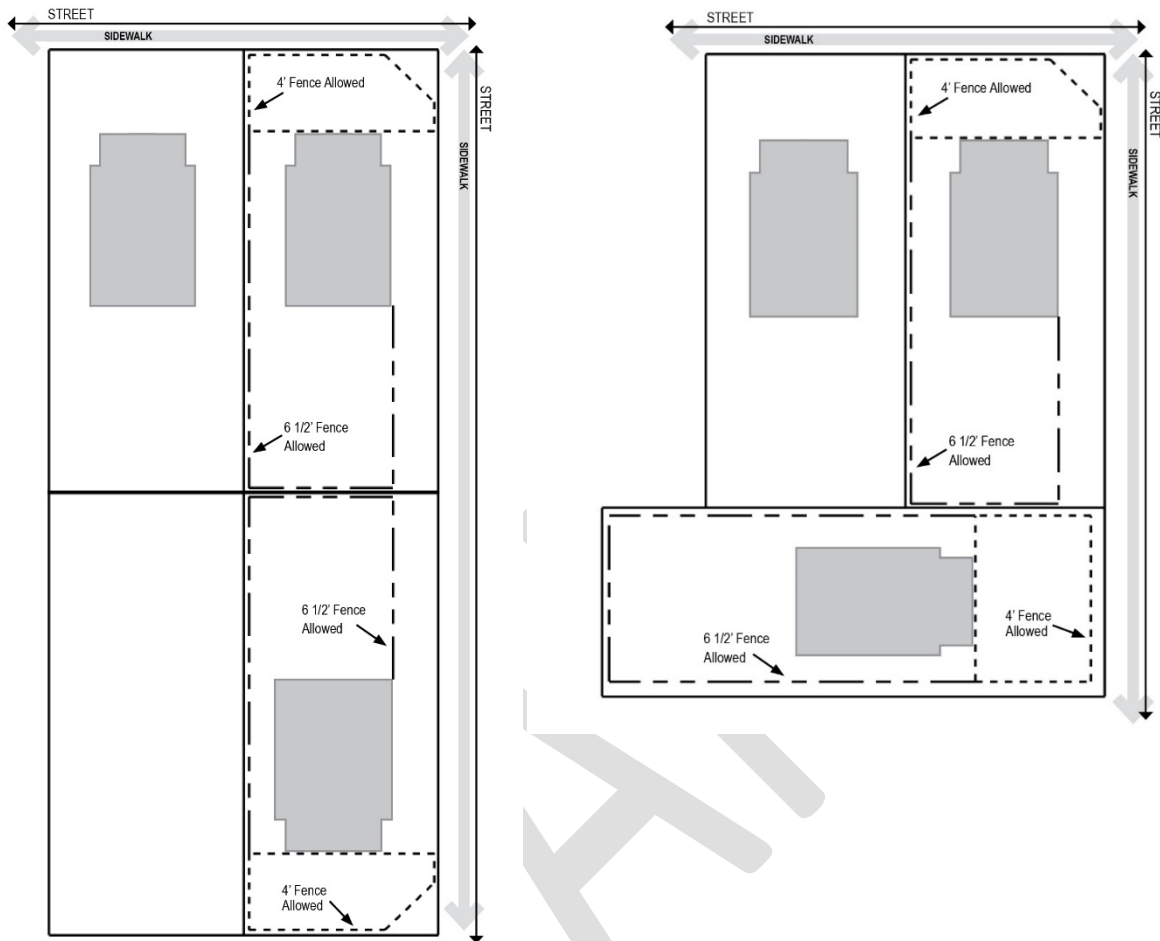
2. Every fence shall be regularly maintained and shall not become or remain in a condition of disrepair, or constitute a nuisance.
3. All posts or similar supporting devices used in the construction of fences shall face inward toward the property being fenced. That side of the fence considered to be 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 ($\frac{1}{2}$) 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.

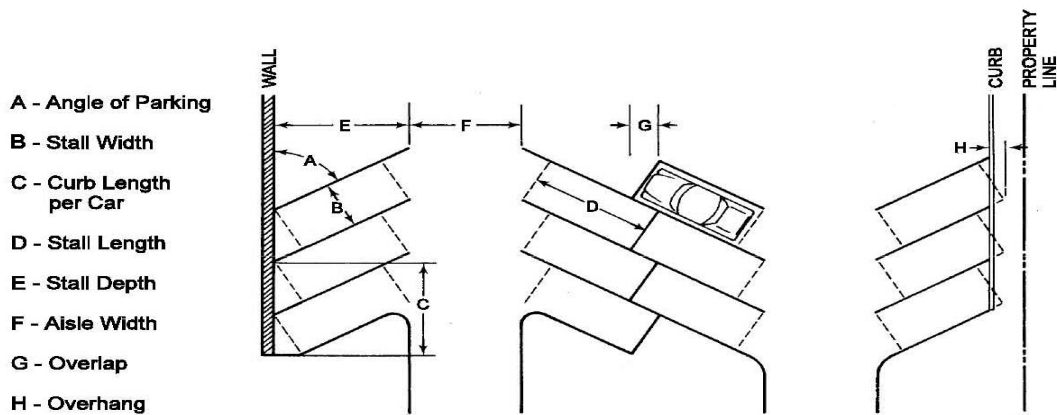
1. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the standards established in the Table [515-4-12.1] and Figure [515-4-12.1] as follows:

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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 along 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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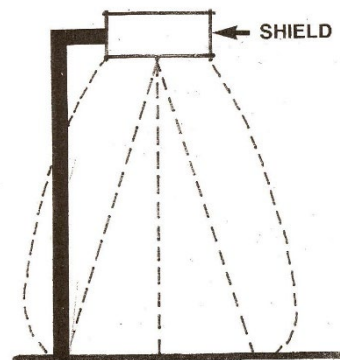
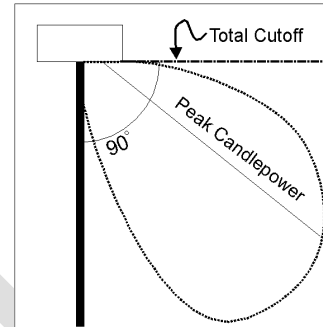
22. **Family.** Two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.
23. **Farm.** Real property used for commercial agriculture 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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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
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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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
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		

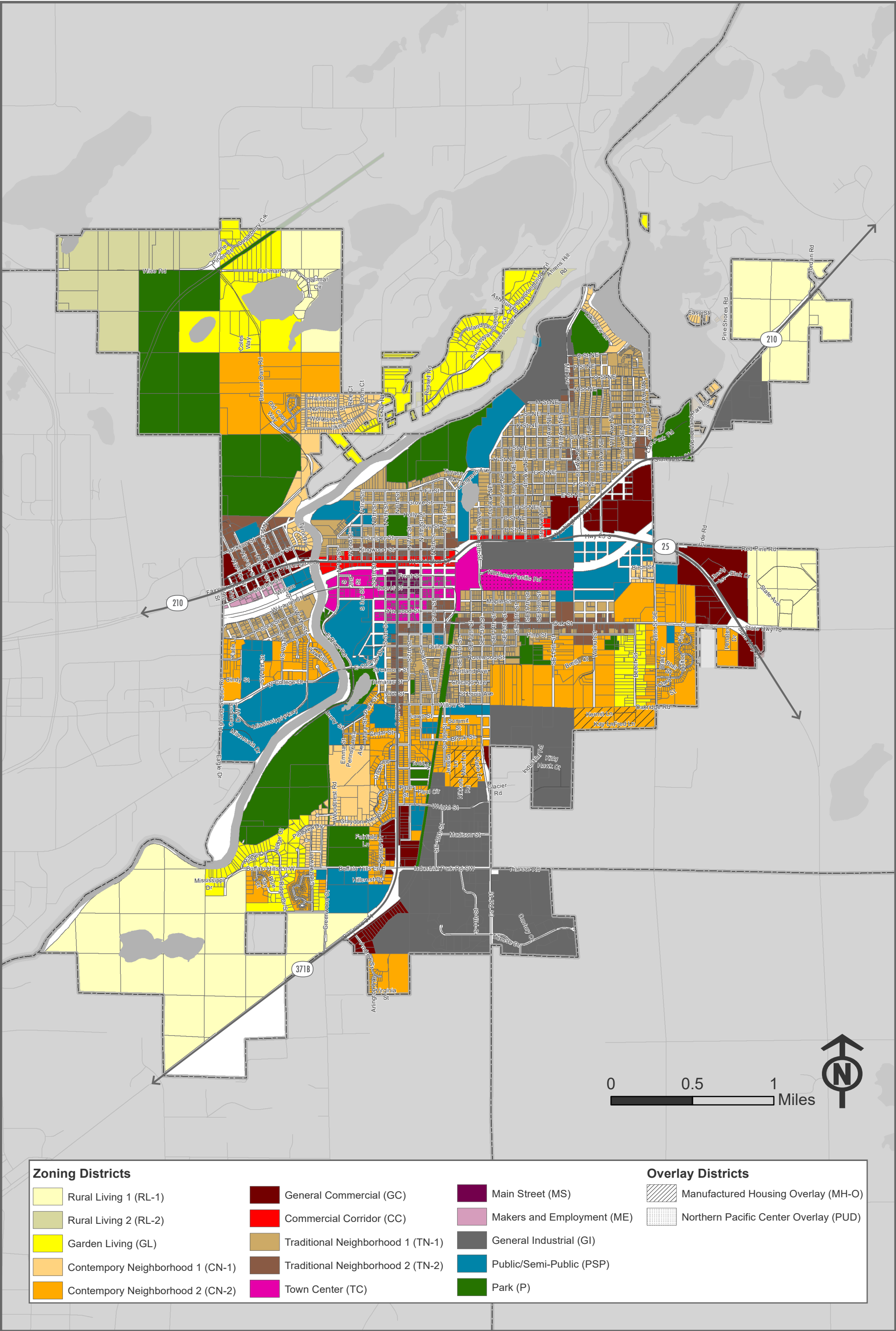
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Adopted XX.XX.2022

BRAINERD, MN
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
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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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		



The Brainerd City Council is seeking public input on the proposed new zoning code, which the Council will be considering for adopting on Monday, April 4 in the form of Proposed Ordinance No. 1527. The proposed zoning code is a complete repeal and replacement of the current Zoning Code and Zoning Map.

The proposed zoning code can be found on the City of Brainerd website at www.ci.brainerd.mn.us.

The City Council will be taking public comment during the City Council meeting on Monday, April 4 at 7:30pm. The meeting will be held in the City Council Chambers of City Hall at 501 Laurel St. If you cannot attend the meeting in-person but would still like to submit comment, please submit comments in writing to Community Development Director David Chanski at dchanski@ci.brainerd.mn.us.



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: Final Reading & Public Hearing - Proposed Ordinance 1528 - Replacing Sec

☐ 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): Deputy Chief John Davis	Estimated Time Needed: 2 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. The City Council held the first reading at their March 21 meeting.	
Alternatives, Options, Effects on Others/Comments:	
Recommended Action/Motion: 1) Hold Public Hearing 2) Hold/Dispense with the final reading of Proposed Ordinance No. 1528, an ordinance replacing current City Code 1135 - Tobacco and Related products. 3) Adopt Proposed Ordinance No. 1528, an ordinance replacing City Code 1135 - Tobacco and Related Products.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	

**ORDINANCE
NO. 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 its passage and after its publication.

Adopted this 4th day of April 2022

KELLY BEVANS
President of the Council

Approved this 5th day of April 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published on: March 23rd, 2022



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: PH and Res - Imp 21-10 - Greenwood Street Reconstruction 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: 10 Minutes
Summary of Issue: Pursuant the notice of hearing and to continue with the assessment proceedings, the council must hold a public hearing to consider the improvement and hear testimony for or against the said improvements.	
Alternatives, Options, Effects on Others/Comments: Improvement 21-10 is a reconstruction project on Greenwood Street from Woodland Hills Lane to S 6th Street (Highway 371B). Staff will be available to answer any questions or concerns the Committee and Council may have about the project at the meeting.	
Recommended Action/Motion: 1. Hold the improvement hearing to hear testimony for or against the said improvements. 2. Staff recommends adopting the attached resolution ordering the improvement, approving plans and specifications, and ordering advertisement of bids to be opened on May 6, 2022 at 11:00 AM.	
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 HEARING ON IMPROVEMENT

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of Brainerd, Minnesota, will meet in the Council Chambers of the City Hall at 7:30 p.m. on April 4, 2022, to consider making the improvement as described below pursuant to Minnesota Statute Sections 429.011 to 429.111:

IMPROVEMENT 21-10

Street Reconstruction— Grading, Aggregate Base, Bituminous, Concrete Curb and Gutter

Greenwood Street – 840 feet south of Woodland Hills Lane to Woodland Hills Lane.

The area proposed to be assessed is the property abutting said streets and alleys.

The estimated cost of such improvements is \$114,000

Such persons as desire to be heard with reference to the proposed improvements will be heard at this meeting.

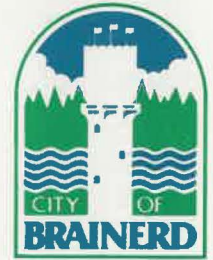
Any individual needing special accommodations please call 828-2307.

Dated: March 7, 2022

Jennifer Bergman
City Administrator

Publish Brainerd Dispatch March 11, 2022, and March 18, 2022

Mayor Badeaux
and Brainerd City Council Members



www.ci.brainerd.mn.us

RE: City Improvement 21-10 – Greenwood Street Reconstruction Project

Greenwood Street – 840-feet South of Woodland Hills Lane to Woodland Hills Lane

Dear Mayor Badeaux and City Council Members,

I am pleased to present this report for improvements as listed above. In conjunction with a Minnesota Department of Transportation Project on South 6th Street (Trunk Highway 371B), the City of Brainerd is participating in the project with the grading and surfacing of Greenwood Street.

Project Description

MnDOT intends on re-aligning Greenwood Street from South 6th Street to 840-feet south of Woodland Hills Lane. The realignment is being provided to create a 90-degree intersection at the highway crossing to allow for proper sight lines by motorists travelling on Greenwood Street. The city is participating in that construction with MnDOT by paying for the surfacing, including the aggregate base and the asphalt, which is most of the project costs. The city intends to finish the construction of Greenwood Street by effectively grading and surfacing the last 840 feet of roadway to Woodland Hills Lane, in which is a previously improved City Street. Greenwood Street is a Municipal State Aid Street (MSAS) and is therefore subject to being constructed to State Aid Standards as outlined in Minnesota Rule 8820.

Existing Traffic and Considerations during the Design

The feasibility of this construction was largely considered during the design process. City staff have been working through the design from preliminary survey to final design/plans and specifications and have evaluated feasibility throughout the process. It is the intent of this report to outline the existing and proposed project conditions that were considered during design and the feasibility analysis that occurred during this process.

Greenwood Street is functionally classified as a local street. It has a current average daily traffic of 180 vehicles/day in 2021. It is anticipated that the street will carry nearly 200 vehicles/day in 2041. Greenwood Street serves as a short-cut for vehicles travelling to and from Buffalo Hills Lane to South 6th Street (Trunk Highway 371B). Buffalo Hills Lane is classified as a local street but carries significantly higher traffic than Greenwood Street at 1,750 east of Greenwood Street and 1,400 west of Greenwood Street. South 6th Street (Trunk Highway 371B) is a Trunk Highway that carries 5,200 vehicles per day. It is anticipated that, if Greenwood Street is improved to a bituminous surface, that it may increase the use of the street dramatically over the coming years.

Existing Project Conditions

Greenwood Street is an existing gravel roadway. North of Woodland Hills Lane, it is constructed to a city standard with curb and gutter and a paved surface. The existing typical section generally consists of a 28-foot gravel road top with very little to no ditching due to the adjacent wetlands. The current alignment of Greenwood Street comes in at a skew at the intersection of South 6th Street (Trunk Highway 371B). With the MnDOT plans for reconstruction in 2022, this Greenwood Street intersection will be re-aligned to come in perpendicular to the highway to provide for better side distance in each direction for motorists.

City of Brainerd, 501 Laurel Street, Brainerd, MN 56401 218-828-2307

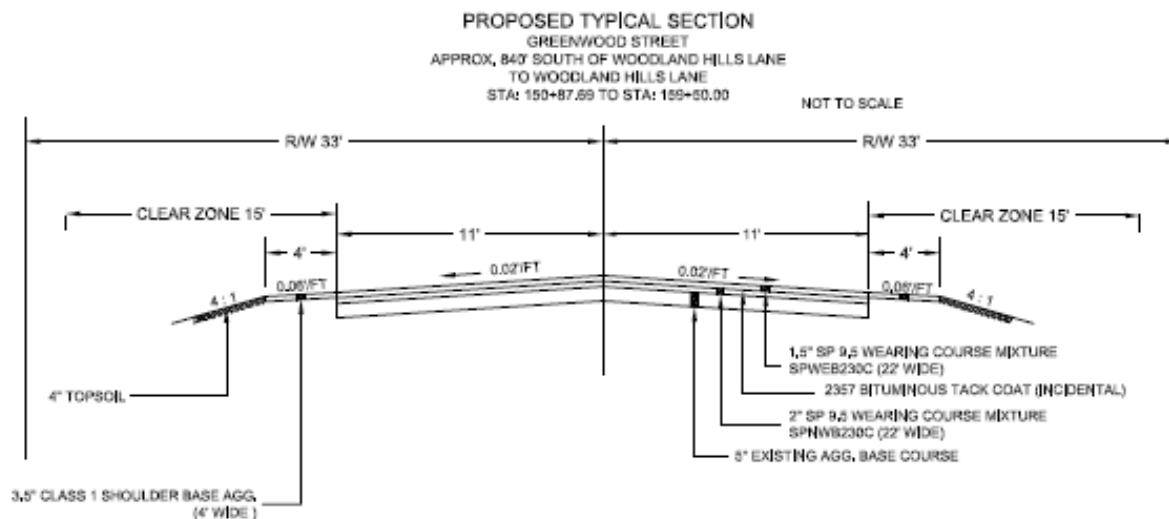
Greenwood Street has never been constructed to a city standard, and therefore, the City would assess for 100% of the street related costs for the construction of the proposed improvements per the City's Assessment Policy.

Proposed Project and Feasibility

Greenwood Street is a State Aid Street and is therefore eligible to use State Aid funds to finance the construction of the improvements. The city advanced funding for the construction of Greenwood Street in 2022. Therefore, the street must be constructed to meet State Aid Standards, as outlined in Minnesota Rule 8820. The minimum standards for construction can be seen in the below table:

Projected ADT (a)	Lane Width (b) feet	Shoulder Width (c) feet	In-slope (c) rise: run	Clear Zone (d) feet	Minimum Design Speed (e) mph	Sur- facing	Structural Design Strength (h) tons	Bridges to Remain (f) Width Curb to Curb feet
0-49	11-12	1	1:3	7	30	Agg.		22
50-149	11-12	3	1:4	9	40	Agg.		22
150-299	11-12	4	1:4	15	40	Agg./ Paved	7-ton/ 10-ton Staged (h)	28
300-749	11-12	4	1:4	15	40	Paved	10-ton Staged (h)	28
750-1499	11-12	4	1:4	25	40	Paved	10-ton Staged (h)	28
1500 and over	11-12	6(g)	1:4	30	40	Paved	10	30

Per the attached table, the typical section that is proposed for the segment of street falls in line with the Projected ADT of 150-299 and can be seen below:



Utilizing this typical section, the corridor was modeled to evaluate the impacts of the wider typical section and the greater depth of surfacing types on the street.

The proposed street section fits on the existing corridor well due to the existing width of the gravel surfacing and the width of the current shoulders seen on the roadway. There is de minimis impacts to the adjacent wetlands as seen through the plans in the typical sections. No extensions of culverts are needed with the proposed construction.

The surfacing plan provides for a 9-ton roadway, as specified in Minnesota Rule 8820 for Municipal State Aid Streets (MSAS). It includes 3.5" of bituminous asphalt and 5" of aggregate base class 5. The roadway strength was evaluated using an assumed subgrade R-Value of 70.

Proposed Project and Work Types

The intent of this section of the report is to give a broad overview of construction types for the proposed work on Greenwood Street:

- Aggregate Base
- Aggregate Shoulder
- Grading
- Bituminous Surfacing
- Concrete Curb and Gutter (at Woodland Hills Lane)
- Erosion Control and Stabilization

Project Estimated Costs

Below is a breakdown of estimated project costs for the project. Cost breakdowns of each specific roadway will be made available upon request. The totals outlined below reflect an estimated cost with 10% engineering costs included. The costs reflected in bids from contractors may vary from these costs based on workload, project site conditions, or other factors out of the City's control. The costs are based on historical values for each item of work and vary due to market conditions. Costs are broken down to Roadway (street, curb and gutter, restoration, etc.), storm sewer, sanitary sewer, watermain, and assessable costs (based on the City's Assessment Policy)

Greenwood Street Reconstruction Project

Roadway	\$113,923
Storm Sewer	\$0
Sanitary Sewer	\$0
BPU (Watermain)	\$0
Assessable Costs	\$113,923
Total Construction and Engineering	\$113,923

Summary

The intended uses of these streets and this infrastructure is not anticipated to change over the life of these improvements, therefore the widths of streets, and other project elements are not proposed to change. No right-of-way acquisition is anticipated for this project and all improvements will utilize existing City right-of-way. The improvements will provide Brainerd constituents with upgraded road surfaces built to withstand heavier trucks, as required by State Aid Standards. With a de minimis impervious coverage change, and no changes to the stormwater conveyance systems, the proposed drainage elements will be the same as pre-project conditions. Run-off from the proposed construction will be improved from a water quality standpoint, as the gravel surfacing will be eliminated and replaced with bituminous surfacing. This improvement is feasible, cost effective due to relative simplicity of the project, the occurrence of other projects in the area (in which will drive

down construction costs and mobilization), and necessary due to the City's goals to maintain a suitable transportation network to serve the citizens and industry within the Brainerd city limits.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Paul Sandy". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Paul G. Sandy, P.E.
City Engineer/Public Works Director
City of Brainerd

R E S O L U T I O N
NO. _____

**RESOLUTION ORDERING IMPROVEMENT, APPROVING PLANS AND
SPECIFICATIONS, AND ORDERING ADVERTISEMENT FOR BIDS**

WHEREAS, a motion by the City Council passed on the 7th day of March 2022, fixed a date for a Council hearing on the proposed improvement listed below; and

WHEREAS, the City Engineer has prepared plans and specifications for the improvement of the following described project:

IMPROVEMENT 21-10

Street Reconstruction

Greenwood Street from 840 feet south of Woodland Hills Lane to Woodland Hills Lane

WHEREAS, such plans and specifications have been presented to the Council for approval;

WHEREAS, ten days' mailed and two weeks' published notice of the hearing was given and the hearing was held thereon on the 4th day of April, 2022, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, at said hearing there was available a reasonable estimate of the amount to be assessed and a description of the methodology, in the forms attached hereto as Exhibit A;

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

1. Said improvement is necessary, cost-effective, and feasible as detailed in the feasibility report.
2. Said improvement is hereby ordered as proposed in the Council motion on the 4th day of April, 2022.
3. City Engineer Sandy is hereby designated as the engineer for this improvement. He shall prepare plans and specifications for the making of such improvement.
4. The City Council declares its official intent to reimburse itself for costs of the project from proceeds of bonds, which are expected to be issued in the maximum principal amount of \$114,000.

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

1. Such plans and specifications, a copy of which is on file at the offices of the City Administrator and the City Engineer, are hereby approved.
2. The City Administrator shall prepare and cause to be inserted in the official paper an advertisement for bids upon the making of such improvement under such approved plans and specifications. The advertisement shall be published, shall specify the work to be done, shall state that bids will be received by the City Administrator until 11:00 a.m. on May 6th, 2022, at which time they will be publicly opened in the Council Chambers of the City Hall by the City Administrator and City Engineer, will then be tabulated, and will be considered by the Council at 7:30 p.m. on May 16, 2022, in the Council Chambers of the City Hall, Brainerd, Minnesota. Any bidder whose responsibility is questioned during consideration of the bid will be given an opportunity to address the Council on the issue of responsibility. No bids will be considered unless sealed and filed with the City Administrator and accompanied by a cash deposit, cashier's check, bid bond or certified check payable to the City Administrator for five (5) percent of the amount of such bid.

Adopted this ____ day of _____, 2022

Approved this _____ day of _____, 2022

ATTEST: _____
JENNIFER BERGMAN
City Administrator

KELLY BEVANS
President of the Council

DAVE BADEAUX
Mayor

EXHIBIT A

IMPACT OF ASSESSMENTS CITY OF BRAINERD IMPROVEMENT NO. 21-10

Available at Hearing Held April 4, 2022

The impact of the improvement is to provide necessary and desirable facilities for public use. The impact of the assessments for the improvement is to make benefited properties and their owners responsible for paying the costs of the improvement over time, not the public at large. The extent of the impact of the assessments depends upon the amount assessed.

A reasonable estimate of the total amount assessed is \$50,000. The City reserves the right when actually levying assessments to assess up to the full costs of the improvement, which may exceed estimates available at the time of the hearing on the improvement.

The following is a description of the methodology the city intends to use to calculate individual assessments for affected parcels on Improvement 21-10: The buildable area for each parcel, calculated in square feet, multiplied by a general market benefit of \$0.025 per square foot of buildable area. The City reserves the right when actually levying assessments to modify or depart from this methodology to the extent the City deems appropriate.

City of Brainerd, Minnesota

Street and Sewer Assessment Policy

1. Introduction

Special assessments are a charge imposed on properties for an improvement that benefits the owners of that selected property. The authority to use special assessments originates in the state constitution which allows the state legislature to give cities and other local government units the authority “to levy and collect assessments for local improvements upon property benefitted hereby”. The legislature designates that authority to cities in Minnesota Statutes Chapter 429.

A charter city (in which Brainerd is) may choose to use either Chapter 429 or provisions of the charter to assess for local improvements, however, even the state law requires that charter cities follow state law in certain steps of the proceedings.

Special Assessments have three distinct characteristics:

- They are a levy the City uses to finance, or partially finance, a public improvement program.
- The city levies the charge only against those parcels of property that receive some special benefit from the program.
- The amount of the charge bears a direct relationship to value of the benefits the property receives.

The City of Brainerd, Minnesota finds it beneficial to fund portions or all the 5-year street and sewer capital plan using special assessments. Special assessment proceedings will follow the procedures as outlined in Minnesota Statute 429 and any modifications thereto.

2. Assessable Improvements

How Much is Being Assessed?

Developer New Construction

On projects where utilities and roadways are being constructed for the first time, the developer is responsible for installing the watermain, sanitary sewer, grading, surfacing, storm sewers, and any other incidental features it sees fit. The city requires developers to construct all facilities to city standards and be approved by the City engineering department. While it is ultimately up to the developer to decide how the development costs incurred are recouped, the developer will typically split these costs to the number of parcels developed and recoup its cost through the sale price of the lots.

Petitioned New Construction

On projects where the city is petitioned to install the new improvements, the entire project cost being constructed is assessed to the abutting properties, as either by a per lot basis or by a front-foot basis.

Petitioned or Council Authorized Reconstruction of Resurfacing

Whether the city acts upon its own authority to make an improvement or it is petitioned by property owners, the city assesses one-half (1/2) of the cost of the reconstruction or resurfacing improvement including construction and engineering of the said improvement on a front-foot or per lot basis. The other one-half (1/2) of the resurfacing or reconstruction cost is paid by the city. If utilities such as sanitary sewer, water mains, or storm sewers are being reconstructed along with the project, the cost of this work is not assessed, but rather is covered through user fees and rates set by council or public utilities commission. If a project consisting of overlaying a street is proposed, the entire project cost is assessed to abutting properties. The City does not typically assess for new sidewalks, but may from time to time, assess for the entire costs of repairs thereto.

Pursuant to Petition – Properties Abutting the City but outside City Corporate Boundaries

The City does not construct municipal utilities outside of its corporate boundaries until such time the properties are annexed and within the City of Brainerd corporate boundaries. Once annexation is completed, the utilities are installed and the entire cost of installation of said utilities are assessed to abutting property owners.

Pursuant to Council Action – Properties not Abutting the City Corporate Boundaries

The City does not construct municipal utilities outside of its corporate boundaries until such time the properties are annexed and within the City of Brainerd corporate boundaries. Once annexation is completed, the utilities are installed and the entire cost of installation of said utilities are assessed to abutting property owners.

In prior years, the City Council authorized the construction of utility improvements outside its corporate boundaries and not abutting the city. To pay for such costs, the council established a Water Connection Charge (WCC) and Sewer Connection Charge (SCC). This charge, as initially set by council resolution, represents the average costs of constructing such utility improvements and is payable immediately upon connection to the system. This charge is enacted if the property owner elects to divide the property in which assessments were imposed and deferred. If a lot is split and the owner elects to connect to sewer and water, the WCC and SCC are charged to the property owner, with the balance of the deferred assessment remaining on the other parcel created from the split.

The WCC and SCC set by council resolution will remain in effect until repealed by the council. Said resolution may be adjusted periodically by the city council.

3. Initiation of an Improvement

By Petition from Property Owners

Per Minnesota Statute 429, if the council chooses to proceed with an improvement based on a petition, it must have the signatures of at least 35 percent in frontage of the property bordering the proposed improvements. If the council relies upon a petition as its basis for proceeding, it cannot make substantial change the improvement from what is asked for in the petition. The council must pass a resolution determining whether the petition is legally sufficient or not.

By Council Action

Per City of Brainerd Charter Section 92, in the first instance in which the council desires to levy a special assessment for an improvement, it shall require a two-thirds (2/3) vote of the members elect except in the case of sidewalks, in which a majority is sufficient.

4. Proceedings

Minnesota Statute 429

The City of Brainerd has elected to utilize Minnesota Statute 429 for its assessment proceedings, as amended and incorporated by reference into this policy.

Interest Rates

The council determines the interest rate on the special assessments, along with any other repayment provisions. The interest rate is typically set by ensuring a reasonable relationship between the assessments interest rate and the bond interest rate if the city issued bonds for the project. If the city finances the project with funds on hand, the council will look at the interest rate the city would otherwise have earned on the funds.

5. Payments

Once the assessments have been adopted, property owners originally have numerous options for repayment:

1. Pay the total amount of the assessment within 30 days after the council adopts the assessment rolls. This this situation, the city cannot charge interest; or
2. Pay the assessments in annual installments (with interest) under the terms set by the council; or
3. Pay the entire amount at any time after the 30 days, but before any certification to the county auditor. The property owner pays only the amount of interest accrued as of the date of payment; or
4. At any time after certification to the County Auditor, the property owner may still pay the entire remaining unpaid amount to the County Treasurer. However, the property owner must pay the entire remaining unpaid amount of the assessment before November 15 of any year and must also pay all interest accrued until the end of that calendar year.

6. Deferments

The City Council has adopted policy which allows for assessment deferments for elderly person and for all other persons who fall within the economic hardship criteria. A deferred assessment is not forgiven but is postponed until such time that the property owner either elects to resume making the annual installments as certified, no longer meets the economic hardship criteria, or sells the property. Persons interested in deferring assessments must apply each year to have the following year assessment installment deferred. After 10 years, no further applications are necessary, and the deferred installments will remain permanently deferred without accrual of additional interest, until such time that the deferred assessment is voluntarily paid of the property is sold. The most current deferment criteria passed by council resolution can be requested from the City Clerk and a copy provided to the requestor.

7. Other Frequently Asked Questions

Will Improvements Affect my Property Taxes?

While it is well documented within the real estate industry that streets and utilities that are in poor condition decrease the marketability and sale prices of homes, improvements to the streets and utilities do not automatically increase the taxes on the property. Property market valuations, as determined by the County Assessor, are based on the recent sale prices of comparable properties within the neighborhood. Following improvements to streets and utilities, the marketability of properties tends to increase, and the properties can demand a higher sale price. As years pass and the history of sale prices in the neighborhood show increases, the County Assessor will adjust the market valuation of properties to more closely reflect the price the property would sell for. If the market valuations in the neighborhood are increasing at a faster rate than the City, County, and School District averages, the property taxes will tend to increase over time.

Why is There a Difference Between my Front Footage and Assessable Footage?

If you live on a corner lot, your property is subject to assessments for improvements on both streets. The City Council has adopted a side-yard deduction assessment policy to help reduce the burden for the owners of corner lots or reconstruction or resurfacing projects. Your side-yard is defined as the side of your lot with the most street frontage. Improvements made to your side-yard street result in the city paying for the cost of one-half of your side-yard footage and the property owner being assessed for one-half (1/2) of the side-yard footage. The most common assessment notices for side-yard street improvements will list the front-footage as 140 feet and the assessable front-footage as 70 feet.



Brainerd City Council Agenda Request

Requested Meeting Date: April 4, 2022

Title of Item: PH and Res - Imp 21-12 - North Brainerd Reconstruction 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: 10 Minutes
Summary of Issue: Pursuant the notice of hearing and to continue with the assessment proceedings, the council must hold a public hearing to consider the improvement and hear testimony for or against the said improvements.	
Alternatives, Options, Effects on Others/Comments: Improvement 21-12 is a reconstruction project in North Brainerd on N 3rd Street, N 6th Street, N 7th Street, and Juniper Street. Staff will be available to answer any questions or concerns the Committee and Council may have about the project at the meeting.	
Recommended Action/Motion: 1. Hold the improvement hearing to hear testimony for or against the said improvements. 2. Staff recommends adopting the attached resolution ordering the improvement, approving plans and specifications, and ordering advertisement of bids to be opened on May 6, 2022 at 10:00 AM.	
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 HEARING ON IMPROVEMENT

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of Brainerd, Minnesota, will meet in the Council Chambers of the City Hall at 7:30 p.m. on April 4, 2022, to consider making the improvement as described below pursuant to Minnesota Statute Sections 429.011 to 429.111:

IMPROVEMENT 21-10

Street Reconstruction— Grading, Aggregate Base, Bituminous, Concrete Curb and Gutter, Storm Sewer, Watermain, and Incidentals

N 3rd Street – Washington Street to Holly Street
N 6th Street – Washington Street to Juniper Street
N 7th Street – Kingwood Street to Holly Street
Juniper Street – N 2nd Street to N 10th Street

The area proposed to be assessed is the property abutting said streets and alleys.

The estimated cost of such improvements is \$4,235,968.

Such persons as desire to be heard with reference to the proposed improvements will be heard at this meeting.

Any individual needing special accommodations please call 828-2307.

Dated: March 7, 2022

Jennifer Bergman
City Administrator

Publish Brainerd Dispatch March 11, 2022, and March 18, 2022

Mayor Badeaux
and Brainerd City Council Members



www.ci.brainerd.mn.us

RE: City Improvement 21-12 – North Brainerd Reconstruction Project

North 3rd Street – Washington Street to Holly Street
North 6th Street – Washington Street to Juniper Street
North 7th Street – Kingwood Street to Holly Street
Juniper Street – North 2nd Street to North 10th Street

Dear Mayor Badeaux and City Council Members,

I am pleased to present this report for improvements as listed above. Generally, the improvements consist of approximately 17 blocks of full reconstruction of street surfaces, storm sewer replacement, watermain replacement and upgrades, removal of existing concrete and bituminous surfacing, curb and gutter replacements, sidewalk and pedestrian ramp upgrades, restoration, and other miscellaneous incidental items.

Project Description and Existing Conditions

This project is a large-scale reconstruction project in north Brainerd on streets that have fallen into general disrepair and have conditions that may not be acceptable for public use. There are also undersized storm sewer utilities along with undersized watermain that has fallen into disrepair that needs replacement. When streets and utilities come to this point, the city has an obligation to repair or make repairs to these streets to make them safe and passable for the travelling public, along with ensuring the streets have proper drainage systems installed.

The City utilizes a pavement management system in which scores pavement and curb conditions based on current deficiencies within the pavements. The equation utilizes measurements of different cracking, potholing, and other surface and subgrade deficiencies that lead to a street falling into disrepair or an unacceptable condition. The score is from 0-4, zero means the road is completely impassable and a 4 means that a street is brand new or newly constructed. Below is a list of the streets planned for work this summer and their respective pavement and curb scores based on 2021 data. This data also has the last year a resurfacing was completed. Please note the scores read pavement score/curb score:

North 3 rd Street	Pavement 3.03/4.00, Curb 1.00/4.00 – Last Resurfaced in 1997 – Originally Constructed in 1918
North 6 th Street	Pavement 1.46/4.00, Curb 1.00/4.00 – Last Resurfaced in 1974 – Originally Constructed in 1910.
North 7 th Street	Pavement 2.46/4.00, Curb 1.50/4.00 – Last Resurfaced in 1974 – Originally Constructed in 1910.
Juniper Street	2 nd – 5 th : Pavement 2.67/4.00, Curb 1.00/4.00 – Last Resurfaced in 1988, Originally Constructed in 1914 5 th – 7 th : Pavement 2.69/4.00, Curb 2.00/4.00 – Last Resurfaced in 1985, Originally Constructed in 1975 7 th – 8 th : Pavement 2.67/4.00, Curb 1.00/4.00 – Last Resurfaced in 1988, Originally Constructed in 1914

City of Brainerd, 501 Laurel Street, Brainerd, MN 56401 218-828-2307

8th – 10th: Pavement 2.67/4.00, Curb 1.00/4.00 – Last Resurfaced in 1988, Originally Constructed in 1953

You will note that some of the above scores are a little higher than we would typically be recommending resurfacings. During pavement evaluation processes, we look at specific types of pavement deficiencies to score the pavements and enter equations. We typically look at a localized 100-foot segment for scoring pavements that is most representative of the street. This does not mean that other areas of the street may be in worst or better condition during scoring. Staff looks at the entire street when identifying project limits and does not focus solely on scores. There are also other needs when considering project limits such as underlying utility needs and needs for sidewalk inclusion that staff looks at when evaluating project termini.

All the streets listed above are at or have exceeded their planned life expectancy. All streets are seeing weathered surfaces, transverse and longitudinal cracking, alligator cracking, potholing, and other distresses that indicate the pavement needs reconstruction. Underlying watermain needs were also taken into consideration with the help of Brainerd Public Utilities in identifying project limits and construction type (resurfacing/reconstruction) based on location of watermain under the street surface. Storm sewers within the project limits, being constructed during time periods where development was not as heavy as it is today, are severely undersized to the point where localized flooding occurs on smaller storm events. The storm sewer is a driving force for many of these streets, as a majority of the storm sewer was installed at original construction, in which happens to have occurred in the early 1910's, when Brainerd was in its infancy of development. As more impervious surfaces are added and more stormwater generated, along with the frequency of heavier rain events, localized flooding during events is occurring in most of these areas, according to the city's H & H Report.

All the streets proposed for reconstruction are functionally classified as local streets. Collector Streets in North Brainerd consist of Kingwood Street, North 4th Street, and North 8th Street. These proposed streets are all one block off these collector streets. The future use and designation of these streets is not proposed or anticipated to change in future years and serve as local streets that bring traffic to collector streets through North Brainerd.

North 3rd Street serves St. Joseph's Hospital front door traffic. Other important, high traffic generating businesses or amenities on these streets include Gregory Park, Park United Methodist Church, Brainerd Christian Fellowship, Discovery Woods Montessori School, St. Paul's Episcopal Church, St. Francis of the Lakes Catholic School, and St. Francis Catholic Church.

This area of Brainerd has a high generation of pedestrian traffic. Most streets in this area have sidewalks on both sides of the streets. With the proximity of Gregory Park, the hospital, churches, and schools, the sidewalks along these streets and accessibility are important to this area. Many of the sidewalks within the project limits will be removed and replaced with the project, as some has fallen into disrepair.

Proposed Project and Work Types

The intent of this section of the report is to give a broad overview of construction types for the project along with outlining the feasibility of the project.

Street reconstruction of this nature is highly intrusive. The underlying utility needs and current surface and curb and gutter ratings are driving most of the improvements.

Right-of-Way – The project is not anticipated to need any right-of-way acquisition. Most of the current rights-of-way on the project are 80-feet or more in width, in which allows the full reconstruction of the street, replacement of undersized and old utilities, concrete sidewalk replacement, and restoration without the need for additional temporary easements or permanent right-of-way.

Removals – Most of the streets in the project area have underlying concrete surfacing under them. This was the preferred construction when the roadways were originally constructed. This is being proposed to all be removed to access underlying utilities. All curb and gutter are proposed for removal in the project limits, as all was part of the original construction. Some existing storm sewer and watermain will be filled with sand and abandoned in place due to the inaccessibility of the utilities due to cutting across private property or the existence of large mature trees that are important to the community. Sidewalks, driveways, alley crossings, and other pavements outside of the street are all being proposed for removal with the project, as street grades and utility re-alignments, along with the condition of these elements, make it necessary.

Proposed Typical Sections – The city is proposing to use its standard typical section. That is a 35-foot-wide street (32' bituminous surface with 3-feet of curb and gutter drivable surface). This section allows for two lanes of traffic (10 ½-feet wide) and two parking lanes (7-feet wide). The city is proposing its 7-ton residential design standard. With an assumed subgrade R-Value of 70, this equates to a typical section depth of 4 inches of aggregate base and 2 inches of bituminous asphalt. The city is proposing bump out pedestrian nodes at the intersections as outlined below:

North 6th Street – Kingwood Street and Juniper Street

Juniper Street – North 5th Street and North 7th Street.

North 7th Street – Ivy Street and Holly Street.

Most of these intersections abut Gregory Park, which is a large pedestrian traffic generator in north Brainerd. Pedestrian bump outs provide for shorter crossing distances and more sight lines for on-coming traffic for pedestrians.

The city is proposing the re-incorporation of the median on North 6th Street from just south of Kingwood Street to Juniper Street. This median was removed some time ago. This is the scenic entrance into North Brainerd, and the incorporation of this median will frame the Gregory Park fountain.

The one-way off Washington Street for the one block of North 6th Street is proposed to remain with this construction project.

Typical section drawings for the proposed sections were not available at the time of this report.

Utilities – Full storm sewer upgrades throughout the project limits are proposed to occur, along with full replacement and additions of existing watermain infrastructure within the project limits. Sanitary sewer castings are proposed to be replaced with the project. Water services to residences and businesses are proposed to be replaced with the project where watermain is being added or replaced.

Restoration – Boulevards will be restored with black dirt and seed in any disturbed area. Boulevard trees removed with construction will be replaced on a 1:1 basis, along with gaps in boulevard trees being added on the project. Many existing stumps that have not been removed throughout the years will also be removed as part of the construction project. Existing landscaping, retaining walls, and other elements placed by property owners will be individually addressed with the project by city staff

and the property owner. Sprinklers will need to be removed by the resident or business prior to construction and replaced once restoration has occurred.

Environmental Considerations and Erosion Control – Standard erosion control BMP's will be placed during construction. Storm sewer will be offline for most of the project, and the contractor will be responsible to ensure the sites are accessible to both vehicles and pedestrians throughout construction. Most of the stormwater in this area is diverted to an existing pond at the corner of North 10th Street and Ivy Street. Impervious surfaces are likely to be reduced with the project construction due to the slight changes in typical sections and the re-introduction of a grass boulevard median on North 6th Street. No protected or endangered species are anticipated to be affected by the proposed construction.

Project Estimated Costs

Below is a breakdown of estimated project costs for the project. Cost breakdowns of each specific roadway will be made available upon request. The totals outlined below reflect an estimated cost with 10% engineering costs included. The costs reflected in bids from contractors may vary from these costs based on workload, project site conditions, or other factors out of the city's control. The costs are based on historical values for each item of work and vary due to market conditions. Costs are broken down to roadway (street, curb and gutter, restoration, etc.), storm sewer, sanitary sewer, watermain, assessable (based on a residential roadway design), and staff took the liberty to break out sub-cut costs and sidewalk costs to give an idea of the cost of those additional items that are necessary for the street construction:

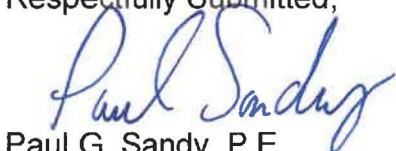
North Brainerd Reconstruction Project

Roadway	\$1,814,739
Storm Sewer	\$793,128
Sanitary Sewer	\$28,765
BPU (Watermain)	\$971,618
Sidewalk	\$627,718
Assessable Costs (not included in total)	\$825,178

Total Construction and Engineering	\$4,235,968
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The intended uses of these streets and this infrastructure is not anticipated to change over the life of these improvements. Feasibility analysis is completed during the survey, preliminary design, public meetings, and final design of the proposed improvements. Through this analysis, city staff have completed most of the plans and specifications that are explained and contained in this report. The streets proposed for reconstruction have exceeded their life expectancy. The city has an obligation to maintain these traffic corridors for pedestrian and vehicles. Underlying utilities proposed for replacement are undersized and in critical need for replacement. No right of way or expansion of existing streets is proposed, and environmental considerations have been addressed through design. The proposed project is feasible, cost effective, and necessary due to the elements outlined in this report and submitted to the Council as necessary according to Minnesota Statute 429.

Respectfully Submitted,



Paul G. Sandy, P.E.
City Engineer/ Public Works Director
City of Brainerd

RESOLUTION
NO. _____

**RESOLUTION ORDERING IMPROVEMENT, APPROVING PLANS AND
SPECIFICATIONS, AND ORDERING ADVERTISEMENT FOR BIDS**

WHEREAS, a motion by the City Council passed on the 7th day of March 2022, fixed a date for a Council hearing on the proposed improvement listed below; and

WHEREAS, the City Engineer has prepared plans and specifications for the improvement of the following described project:

IMPROVEMENT 21-12

Street Reconstruction

N 3rd Street – Washington Street to Holly Street

N 6th Street – Washington Street to Juniper Street

N 7th Street – Kingwood Street to Holly Street

Juniper Street – N 2nd Street to N 10th Street

WHEREAS, such plans and specifications have been presented to the Council for approval;

WHEREAS, ten days' mailed and two weeks' published notice of the hearing was given and the hearing was held thereon on the 4th day of April, 2022, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, at said hearing there was available a reasonable estimate of the amount to be assessed and a description of the methodology, in the forms attached hereto as Exhibit A;

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

1. Said improvement is necessary, cost-effective, and feasible as detailed in the feasibility report.
2. Said improvement is hereby ordered as proposed in the Council motion on the 4th day of April, 2022.
3. City Engineer Sandy is hereby designated as the engineer for this improvement. He shall prepare plans and specifications for the making of such improvement.
4. The City Council declares its official intent to reimburse itself for costs of the project from proceeds of bonds, which are expected to be issued in the maximum principal amount of \$4,235,968.

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

1. Such plans and specifications, a copy of which is on file at the offices of the City Administrator and the City Engineer, are hereby approved.
2. The City Administrator shall prepare and cause to be inserted in the official paper an advertisement for bids upon the making of such improvement under such approved plans and specifications. The advertisement shall be published, shall specify the work to be done, shall state that bids will be received by the City Administrator until 10:00 a.m. on May 6th, 2022, at which time they will be publicly opened in the Council Chambers of the City Hall by the City Administrator and City Engineer, will then be tabulated, and will be considered by the Council at 7:30 p.m. on May 16, 2022, in the Council Chambers of the City Hall, Brainerd, Minnesota. Any bidder whose responsibility is questioned during consideration of the bid will be given an opportunity to address the Council on the issue of responsibility. No bids will be considered unless sealed and filed with the City Administrator and accompanied by a cash deposit,

cashier's check, bid bond or certified check payable to the City Administrator for five (5) percent of the amount of such bid.

Adopted this ____ day of _____, 2022

Approved this _____ day of _____, 2022

KELLY BEVANS
President of the Council

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

EXHIBIT A

IMPACT OF ASSESSMENTS CITY OF BRAINERD IMPROVEMENT NO. 21-12

Available at Hearing Held April 4, 2022

The impact of the improvement is to provide necessary and desirable facilities for public use. The impact of the assessments for the improvement is to make benefited properties and their owners responsible for paying the costs of the improvement over time, not the public at large. The extent of the impact of the assessments depends upon the amount assessed.

A reasonable estimate of the total amount assessed is \$549,180. This is approximately one-half of the street reconstruction costs being assessed, per the City's Assessment Policy. The City reserves the right when actually levying assessments to assess up to the full costs of the improvement, which may exceed estimates available at the time of the hearing on the improvement.

The following is a description of the methodology the city intends to use to calculate individual assessments for affected parcels on Improvement 21-12: Front footage with applicable deductions for side-yards calculated in based on the City's Assessment Policy. The City reserves the right when actually levying assessments to modify or depart from this methodology to the extent the City deems appropriate.

City of Brainerd, Minnesota

Street and Sewer Assessment Policy

1. Introduction

Special assessments are a charge imposed on properties for an improvement that benefits the owners of that selected property. The authority to use special assessments originates in the state constitution which allows the state legislature to give cities and other local government units the authority “to levy and collect assessments for local improvements upon property benefitted hereby”. The legislature designates that authority to cities in Minnesota Statutes Chapter 429.

A charter city (in which Brainerd is) may choose to use either Chapter 429 or provisions of the charter to assess for local improvements, however, even the state law requires that charter cities follow state law in certain steps of the proceedings.

Special Assessments have three distinct characteristics:

- They are a levy the City uses to finance, or partially finance, a public improvement program.
- The city levies the charge only against those parcels of property that receive some special benefit from the program.
- The amount of the charge bears a direct relationship to value of the benefits the property receives.

The City of Brainerd, Minnesota finds it beneficial to fund portions or all the 5-year street and sewer capital plan using special assessments. Special assessment proceedings will follow the procedures as outlined in Minnesota Statute 429 and any modifications thereto.

2. Assessable Improvements

How Much is Being Assessed?

Developer New Construction

On projects where utilities and roadways are being constructed for the first time, the developer is responsible for installing the watermain, sanitary sewer, grading, surfacing, storm sewers, and any other incidental features it sees fit. The city requires developers to construct all facilities to city standards and be approved by the City engineering department. While it is ultimately up to the developer to decide how the development costs incurred are recouped, the developer will typically split these costs to the number of parcels developed and recoup its cost through the sale price of the lots.

Petitioned New Construction

On projects where the city is petitioned to install the new improvements, the entire project cost being constructed is assessed to the abutting properties, as either by a per lot basis or by a front-foot basis.

Petitioned or Council Authorized Reconstruction of Resurfacing

Whether the city acts upon its own authority to make an improvement or it is petitioned by property owners, the city assesses one-half (1/2) of the cost of the reconstruction or resurfacing improvement including construction and engineering of the said improvement on a front-foot or per lot basis. The other one-half (1/2) of the resurfacing or reconstruction cost is paid by the city. If utilities such as sanitary sewer, water mains, or storm sewers are being reconstructed along with the project, the cost of this work is not assessed, but rather is covered through user fees and rates set by council or public utilities commission. If a project consisting of overlaying a street is proposed, the entire project cost is assessed to abutting properties. The City does not typically assess for new sidewalks, but may from time to time, assess for the entire costs of repairs thereto.

Pursuant to Petition – Properties Abutting the City but outside City Corporate Boundaries

The City does not construct municipal utilities outside of its corporate boundaries until such time the properties are annexed and within the City of Brainerd corporate boundaries. Once annexation is completed, the utilities are installed and the entire cost of installation of said utilities are assessed to abutting property owners.

Pursuant to Council Action – Properties not Abutting the City Corporate Boundaries

The City does not construct municipal utilities outside of its corporate boundaries until such time the properties are annexed and within the City of Brainerd corporate boundaries. Once annexation is completed, the utilities are installed and the entire cost of installation of said utilities are assessed to abutting property owners.

In prior years, the City Council authorized the construction of utility improvements outside its corporate boundaries and not abutting the city. To pay for such costs, the council established a Water Connection Charge (WCC) and Sewer Connection Charge (SCC). This charge, as initially set by council resolution, represents the average costs of constructing such utility improvements and is payable immediately upon connection to the system. This charge is enacted if the property owner elects to divide the property in which assessments were imposed and deferred. If a lot is split and the owner elects to connect to sewer and water, the WCC and SCC are charged to the property owner, with the balance of the deferred assessment remaining on the other parcel created from the split.

The WCC and SCC set by council resolution will remain in effect until repealed by the council. Said resolution may be adjusted periodically by the city council.

3. Initiation of an Improvement

By Petition from Property Owners

Per Minnesota Statute 429, if the council chooses to proceed with an improvement based on a petition, it must have the signatures of at least 35 percent in frontage of the property bordering the proposed improvements. If the council relies upon a petition as its basis for proceeding, it cannot make substantial change the improvement from what is asked for in the petition. The council must pass a resolution determining whether the petition is legally sufficient or not.

By Council Action

Per City of Brainerd Charter Section 92, in the first instance in which the council desires to levy a special assessment for an improvement, it shall require a two-thirds (2/3) vote of the members elect except in the case of sidewalks, in which a majority is sufficient.

4. Proceedings

Minnesota Statute 429

The City of Brainerd has elected to utilize Minnesota Statute 429 for its assessment proceedings, as amended and incorporated by reference into this policy.

Interest Rates

The council determines the interest rate on the special assessments, along with any other repayment provisions. The interest rate is typically set by ensuring a reasonable relationship between the assessments interest rate and the bond interest rate if the city issued bonds for the project. If the city finances the project with funds on hand, the council will look at the interest rate the city would otherwise have earned on the funds.

5. Payments

Once the assessments have been adopted, property owners originally have numerous options for repayment:

1. Pay the total amount of the assessment within 30 days after the council adopts the assessment rolls. This this situation, the city cannot charge interest; or
2. Pay the assessments in annual installments (with interest) under the terms set by the council; or
3. Pay the entire amount at any time after the 30 days, but before any certification to the county auditor. The property owner pays only the amount of interest accrued as of the date of payment; or
4. At any time after certification to the County Auditor, the property owner may still pay the entire remaining unpaid amount to the County Treasurer. However, the property owner must pay the entire remaining unpaid amount of the assessment before November 15 of any year and must also pay all interest accrued until the end of that calendar year.

6. Deferments

The City Council has adopted policy which allows for assessment deferments for elderly person and for all other persons who fall within the economic hardship criteria. A deferred assessment is not forgiven but is postponed until such time that the property owner either elects to resume making the annual installments as certified, no longer meets the economic hardship criteria, or sells the property. Persons interested in deferring assessments must apply each year to have the following year assessment installment deferred. After 10 years, no further applications are necessary, and the deferred installments will remain permanently deferred without accrual of additional interest, until such time that the deferred assessment is voluntarily paid of the property is sold. The most current deferment criteria passed by council resolution can be requested from the City Clerk and a copy provided to the requestor.

7. Other Frequently Asked Questions

Will Improvements Affect my Property Taxes?

While it is well documented within the real estate industry that streets and utilities that are in poor condition decrease the marketability and sale prices of homes, improvements to the streets and utilities do not automatically increase the taxes on the property. Property market valuations, as determined by the County Assessor, are based on the recent sale prices of comparable properties within the neighborhood. Following improvements to streets and utilities, the marketability of properties tends to increase, and the properties can demand a higher sale price. As years pass and the history of sale prices in the neighborhood show increases, the County Assessor will adjust the market valuation of properties to more closely reflect the price the property would sell for. If the market valuations in the neighborhood are increasing at a faster rate than the City, County, and School District averages, the property taxes will tend to increase over time.

Why is There a Difference Between my Front Footage and Assessable Footage?

If you live on a corner lot, your property is subject to assessments for improvements on both streets. The City Council has adopted a side-yard deduction assessment policy to help reduce the burden for the owners of corner lots or reconstruction or resurfacing projects. Your side-yard is defined as the side of your lot with the most street frontage. Improvements made to your side-yard street result in the city paying for the cost of one-half of your side-yard footage and the property owner being assessed for one-half (1/2) of the side-yard footage. The most common assessment notices for side-yard street improvements will list the front-footage as 140 feet and the assessable front-footage as 70 feet.