

CITY COUNCIL AGENDA

City of Brainerd, Minnesota
City Hall, 501 Laurel Street, Council Chambers
Tuesday, July 5th, 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: 2482 325 5113

Attend by phone **Safety and Public Works Committee 7:00 PM**: 1-844-992-4726 Meeting
Access Code: 2496 133 6815

Attend by phone: **Personnel and Finance Committee 7:00 PM**: 1-844-992-4726 Meeting
Access Code: 2499 618 9478

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

1. Call To Order

2. Roll Call

____ M. O'Day ____ K. Stunek ____ G. Johnson ____ D. Pritschet
____ T. Stenglein ____ T. Erickson ____ K. Bevans ____ Mayor
Badeaux

3. Pledge Of Allegiance

4. Approval Of Agenda - Voice Vote

5. Consent Calendar

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

A. **Approval Of Bills**

Documents:

070522 COUNCIL AP INV REGISTER.pdf

B. **Approval Of Minutes**

Documents:

2022-06-20 CC Draft.pdf

2022-06-27 Joint PUC Workshop.pdf

C. Approval Of Licenses

Contractor Licenses- 4

Documents:

20220705 Contractor Licenses.pdf

D. Department Activity Reports

Fire Chief

HR Director

City Administrator

Documents:

FD June.pdf

CC - HR Directors Report July 2022 Mtg.pdf

CA Report Agenda Item.pdf

E. Minnesota Lawful Gambling Application For Exempt Permit- Submitted By Lower South Long Lakes Improvement Association For An Event To Be Held On September 4th, 2022 At Jacks House Bowling 300 S Highway 25

F. Temporary On-Sale Liquor License Application- Submitted By Brainerd Jaycees For An Event To Be Held July 22 & 23 Downtown Brainerd 6th St And Front St

6. Council Committee Reports

A. Safety And Public Works Committee 7:00 PM

WebEx Teleconference Call-In Information

Call Toll-Free: 1-844-992-4726 Access Code: 2496 133 6815

Documents:

07-05 SPW Agenda.pdf

1. Updated City Of Brainerd Emergency Operations Plan

Documents:

2022 Agenda Request Updated EOP and ESFs.pdf

2. Event/Parking Lot Closure Application- Dangle 5K

Documents:

2022-08-06 Dangie 5K Item.pdf

3. Event/ Alley Closure- Submitted By Crossing Arts Alliance

Documents:

2022-07-21 Crossing Arts Item.pdf

4. Approve Testing Services Contract With ITT For Improvement 19-02 - Cuyuna Lakes State Trail West Segment

Documents:

Imp 19-02 West Segment Materials Testing Services.pdf

5. Approve Quotes For Improvement 22-04 - 2022 Large Patch Project

Documents:

Imp 22-04 Large Patch Quotes.pdf

6. Direction On Open Code Enforcement Cases

Documents:

SPW -Code Enforcement Cases .pdf

B. Personnel And Finance Committee 7:00 PM

WebEx Teleconference Call-In Information

Call Toll-Free: 1-844-992-4726 Access Code: 2499 618 9478

Documents:

07-05 PF Agenda.pdf

1. Ratify The Hiring Of 2022 Temporary/Seasonal Employees

Documents:

PF - Ratify Summer Temporary Employees .pdf

2. Approve Memorandum Of Agreement With IBEW BPU Union For Water Plant Relief Operator Position

Documents:

PF - MOA Brainerd Relief Operator .pdf

3. Approve The Hiring Of Jessie Dehn As City Engineer/Public Works Director

Documents:

PF -Hiring of Jessie Dehn as CE-PW.pdf

4. Consider Approval Of The Revised Employee Policy Manual

Documents:

2022 Revised Employee Policy Manual.pdf

5. Approve Additional Costs Of Clean-Up Day

Documents:

PF - Addl Clean-up Day Costs.pdf

6. Resolution Appointing & Setting Pay For Elections Judges For Training And The Primary And General Elections

Documents:

PF - Res Elections.pdf

7. Update On Request For Funds To Be Returned From Lakes Area Media Collaborative

Documents:

Update on LAMC.pdf

7. Unfinished Business

A. Final Reading- Interim Ordinance 1534- Instituting A Moratorium On The Conversion Of Dwellings To Green Space Or Surface Parking In The R-1 Zone

Conduct Final Reading

Public Hearing

ORD 1534

Documents:

ORD 1534 - Instituting a Moratorim R-1 Zone.pdf

B. Final Reading - Proposed Ordinance No. 1535 - Amending City Code Section 515: Zoning Code And The Official Zoning Map

Conduct Final Reading

Public Hearing
ORD 1535

Documents:

ORD 1535 - Amending Zoning Code .pdf

C. Update On Ward 1 Appointment

Documents:

MA - Ward 1 Appointment.pdf

D. 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 – 2 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 – 1 position

8. Public Forum

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

9. Staff Reports

(Verbal: Any Updates since Packet)

10. **Mayor's Report**

11. **Council Member Reports**

12. **Adjourn To Lions Club Event On July 16th, 2022 At Memorial Park**

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"*

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INVOICE REGISTER REPORT FOR CITY OF BRAINERD
 EXP CHECK RUN DATES 07/05/2022 - 07/05/2022
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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
306992 72014	ACE HARDWARE STORM DAMAGE PPE 235-3100-42220	06/21/2022 pziemer	07/06/2022	175.33 175.33	175.33	Open	N 07/06/2022
	REPAIR & MAINT						
306825 72034	ACE HARDWARE STIHL CHAINSAW OIL - BAP AND SHOP 230-5200-42220	06/15/2022 pziemer	07/06/2022	19.65 19.65	19.65	Open	N 07/06/2022
	REPAIR & MAINT						
307170 72154	ACE HARDWARE SHARPIE, TANK SPRAYER, HOSE WASHER 235-3100-42220	06/28/2022 pziemer	07/06/2022	37.17 37.17	37.17	Open	N 07/06/2022
	REPAIR & MAINT						
307054 72176	ACE HARDWARE THREAD SEAL TAPE, CORED HEX HD PLUG 230-5200-42220	06/22/2022 pziemer	07/06/2022	4.93 4.93	4.93	Open	N 07/06/2022
	REPAIR & MAINT						
307200 72183	ACE HARDWARE INSECT REPELLANT 238-3160-42220	06/28/2022 pziemer	07/06/2022	20.68 20.68	20.68	Open	N 07/06/2022
	REPAIR & MAINT						
307212 72196	ACE HARDWARE C BATTERIES FOR METAL DETECTOR 237-3190-42220	06/29/2022 pziemer	07/06/2022	10.69 10.69	10.69	Open	N 07/06/2022
	REPAIR & MAINT						
307239 72205	ACE HARDWARE TAPE MEASURE - DOWNTOWN 401-1003-43430	06/29/2022 pziemer	07/06/2022	8.99 8.99	8.99	Open	N 07/06/2022
	MISCELLANEOUS						
307243 72209	ACE HARDWARE HEX BUSHING FOR HOT WATER JETTER 238-3160-42220	06/29/2022 pziemer	07/06/2022	5.38 5.38	5.38	Open	N 07/06/2022
	REPAIR & MAINT						
6574217188289 72027	ADVANCE AUTO PARTS BRAKE CLEANER 235-3100-42220	06/20/2022 pziemer	07/06/2022	71.76 71.76	71.76	Open	N 07/06/2022
	REPAIR & MAINT						
6574217917486 72186	ADVANCE AUTO PARTS SQD 443 - BULBS 225-2120-42221	06/28/2022 pziemer	07/06/2022	5.94 5.94	5.94	Open	N 07/06/2022
	SQUAD CAR REPAIR SUPPLIES						

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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
08590546 72046	AMERICAN WELDING-GAS INC MIG WELDER LEAD 235-3100-42220	06/17/2022 pziemer	07/06/2022	240.18 240.18	240.18	Open	N 07/06/2022
	REPAIR & MAINT						
08600203 72076	AMERICAN WELDING-GAS INC TORCH GUAGE REPLACEMENT 235-3100-42220	06/24/2022 pziemer	07/06/2022	45.69 45.69	45.69	Open	N 07/06/2022
	REPAIR & MAINT						
29966 72051	ANDERSON BROTHERS CONSTRU MEMORIAL CONCESSIONS/GREGORY FLAGPOLE 230-5200-42220	06/15/2022 pziemer	07/06/2022	1,645.00 1,645.00	1,645.00	Open	N 07/06/2022
	REPAIR & MAINT						
2530018064 72038	ARAMARK UNIFORM SERVICES RUGS AND OVERALLS 235-3100-43430	06/16/2022 pziemer	07/06/2022	81.70 81.70	81.70	Open	N 07/06/2022
	MISCELLANEOUS						
2530020647 72068	ARAMARK UNIFORM SERVICES RUGS AND OVERALLS 235-3100-43430	06/23/2022 pziemer	07/06/2022	115.53 115.53	115.53	Open	N 07/06/2022
	MISCELLANEOUS						
P52637024 72078	BATTERIES PLUS BATTERIES 225-2120-42210	06/23/2022 pziemer	07/06/2022	111.60 111.60	111.60	Open	N 07/06/2022
	OPERATING SUPPLIES						
P52638006 72079	BATTERIES PLUS CREDIT FOR OVERCHARGE ON BATTERIES 225-2120-42210	06/23/2022 pziemer	07/06/2022	(24.48) (24.48)	(24.48)	Open	N 07/06/2022
	OPERATING SUPPLIES						
6/23/2022 72067	BRAINERD HISTORIC WATER TOWER PRESE REMIT NOTCH 8 WATER TOWER DONATION 101-0000-20803	06/23/2022 pziemer	07/06/2022	276.50 276.50	276.50	Open	N 07/06/2022
	WATERTOWER DONATIONS-CC						
24468 72028	BRAINERD HYDRAULICS/AIR GRADER 112 HYDRAULIC CYLINDER REBUILL 235-3125-42220	06/16/2022 pziemer	07/06/2022	55.57 55.57	55.57	Open	N 07/06/2022
	REPAIR & MAINT						
24563 72182	BRAINERD HYDRAULICS/AIR O-RINGS AND U CUP 235-3125-42220	06/28/2022 pziemer	07/06/2022	55.80 55.80	55.80	Open	N 07/06/2022
	REPAIR & MAINT						

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47,654 72187	BRAINERD MEDICAL SUPPLY FIRST AID & SAFETY SUPPLIES 225-2120-42209	06/24/2022 pziemer	07/06/2022	30.44 30.44	30.44	Open	N 07/06/2022
162502 72188	BRAINERD MEDICAL SUPPLY CREDIT - WRONG ITEMS 225-2120-42209	06/27/2022 pziemer	07/06/2022	(30.44) (30.44)	(30.44)	Open	N 07/06/2022
6/1/22 72194	BRAINERD POLICE DEPT UNDERCOVER SUPPLIES - ALCOHOL 223-2140-43432	06/01/2022 pziemer	07/06/2022	18.35 18.35	18.35	Open	N 07/06/2022
JUNE 22 COBRA 72024	BRAINERD PUBLIC UTILITIES REMIT JUNE 2022 COBRA 101-0000-22800	06/21/2022 pziemer	07/06/2022	76.20 76.20	76.20	Open	N 07/06/2022
28622072 72056	CANON FINANCIAL SERVICE 6/1/22-6/30/22 FD COPIER LEASE 225-2220-43331	06/01/2022 pziemer	07/06/2022	30.66 30.66	30.66	Open	N 07/06/2022
28782760 72057	CANON FINANCIAL SERVICE 7/1/22-7/31/22 FD COPIER LEASE 225-2220-43331	06/22/2022 pziemer	07/06/2022	80.69 80.69	80.69	Open	N 07/06/2022
28622073 72058	CANON FINANCIAL SERVICE 6/1/22-6/30/22 LIB COPIER CONTRACT 211-5505-43430	06/01/2022 pziemer	07/06/2022	27.94 27.94	27.94	Open	N 07/06/2022
28782761 72059	CANON FINANCIAL SERVICE 7/1/22-7/31/22 LIB COPIER LEASE 211-5505-43430	06/22/2022 pziemer	07/06/2022	77.97 77.97	77.97	Open	N 07/06/2022
401121-00 72036	CHAMBERLAIN OIL COMPANY GREASE PENETRATING OIL SOLVENT 235-3100-42220	06/22/2022 pziemer	07/06/2022	389.01 389.01	389.01	Open	N 07/06/2022
0055470060822 72184	CHARTER COMMUNICATIONS 6/8/22-7/7/22 FIRE DEPT PLUS PAST DU 225-2220-43380	06/08/2022 pziemer	07/06/2022	15.80 15.80	15.80	Open	N 07/06/2022

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0008065060822 72185	CHARTER COMMUNICATIONS 6/8/22-7/7/22 POLICE DEPT 225-2120-43380 UTILITIES	06/08/2022 pziemer	07/06/2022	46.80 46.80	46.80	Open	N 07/06/2022
J2022-0363 72041	CITY OF BRAINERD MISSISSIPPI LANDING TRAILHEAD PROJECT 401-9030-43430-21:16 MISCELLANEOUS	06/17/2022 pziemer	07/06/2022	204.24 204.24	204.24	Open	N 07/06/2022
TRX 355 PARKS 72200	CUB FOODS - BRAINERD CONCESSIONS - CHEESE 230-5204-42210 OPERATING SUPPLIES	06/28/2022 pziemer	07/06/2022	19.98 19.98	19.98	Open	N 07/06/2022
1605922 72174	DAHLHEIMER BEVERAGE JANITORIAL SUPPLIES 211-5500-42220 REPAIR & MAINT	06/23/2022 pziemer	07/06/2022	153.00 153.00	153.00	Open	N 07/06/2022
1608022 72179	DAHLHEIMER BEVERAGE CONCESSIONS - POPCORN KITS & BOXES 230-5204-42210 OPERATING SUPPLIES	06/24/2022 pziemer	07/06/2022	113.80 113.80	113.80	Open	N 07/06/2022
6/10/22 72080	DAVIS, JOHN REIMBURSEMENT - FBI LEEDA COURSE 225-2120-43330 PROFESSIONAL DEVELOPMENT	06/10/2022 pziemer	07/06/2022	74.21 74.21	74.21	Open	N 07/06/2022
6/24/22 72153	DESETH, DARRIN LICENSE FEES - REIMBURSEMENT 101-2400-43330 PROFESSIONAL DEVELOPMENT	06/28/2022 pziemer	07/06/2022	65.00 65.00	65.00	Open	N 07/06/2022
813161940 72050	DIAMOND VOGEL PAINT BRAINERD BLUE/WHITE STREETS PAINT 235-3170-42210 OPERATING SUPPLIES	06/01/2022 pziemer	07/06/2022	3,359.80 3,359.80	3,359.80	Open	N 07/06/2022
33281 72086	DIGITAL INK DESIGN & GRAPHICS WRAP FOR NEW TRANSIT BUS 203-9000-45550 CAPITAL - VEHICLES	06/13/2022 pziemer	07/06/2022	1,060.00 1,060.00	1,060.00	Open	N 07/06/2022
SQD 401 2022 72055	DVS SQD 401 2022 REGISTRATION RENEWAL 225-2120-42221 SQUAD CAR REPAIR SUPPLIES	06/20/2022 pziemer	07/06/2022	14.25 14.25	14.25	Open	N 07/06/2022

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R99601 72049	EAST SIDE OIL COMPANY FILTERS/OIL 227-3230-43428	06/10/2022 pziemer	07/06/2022	50.00 50.00	50.00	Open	N 07/06/2022
	USED OIL RECYCLING EXPENSE			50.00			
30022 72085	ECKBERG LAMMERS, P.C. DEPT USE OF FORCE TRAINING 225-2120-43330	06/24/2022 pziemer	07/06/2022	16,390.00 16,390.00	16,390.00	Open	N 07/06/2022
	PROFESSIONAL DEVELOPMENT			16,390.00			
1419 72090	ELECTRICAL OPTIONS LLC REPAIR CRANE FOUNTAIN PUMP-GREGORY P 230-5200-42220	06/22/2022 pziemer	07/06/2022	152.50 152.50	152.50	Open	N 07/06/2022
	REPAIR & MAINT			152.50			
DL020122-26 72146	EMERGENCY AUTOMOTIVE TECHNOLOGIES, DOCKING STATIONS 225-2220-43309	06/27/2022 pziemer	07/06/2022	1,068.65 1,068.65	1,068.65	Open	N 07/06/2022
	COMPUTER TECHNICAL SUPPORT			1,068.65			
66994/CH 72148	ENVIROTECH JULY 22 CITY HALL JANITORIAL 101-1940-43300	06/28/2022 pziemer	07/06/2022	1,826.77 1,826.77	1,826.77	Open	N 07/06/2022
	PROFESSIONAL SERVICES			1,826.77			
66994/FD 72149	ENVIROTECH JULY 22 FIRE DEPT JANITORIAL 225-2220-43300	06/28/2022 pziemer	07/06/2022	246.33 246.33	246.33	Open	N 07/06/2022
	PROFESSIONAL SERVICES			246.33			
66994/PD 72150	ENVIROTECH JULY 22 POLICE DEPT JANITORIAL 225-2120-43300	06/28/2022 pziemer	07/06/2022	1,298.93 1,298.93	1,298.93	Open	N 07/06/2022
	PROFESSIONAL SERVICES			1,298.93			
66994/STREETS 72151	ENVIROTECH JULY 22 STREET DEPT JANITORIAL 235-3100-43300	06/28/2022 pziemer	07/06/2022	246.33 246.33	246.33	Open	N 07/06/2022
	PROFESSIONAL SERVICES			246.33			
1050 72089	ERICKSON'S GREENHOUSE CITY HALL LANDSCAPING 101-9200-43430	06/23/2022 pziemer	07/06/2022	500.00 500.00	500.00	Open	N 07/06/2022
	MISCELLANEOUS			500.00			
24392 72063	FALLS FLAG SOURCE FLAGS 225-2220-42210	06/15/2022 pziemer	07/06/2022	1,039.00 1,039.00	1,039.00	Open	N 07/06/2022
	OPERATING SUPPLIES			1,039.00			

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84580 72189	FIRST IMPRESSION PRINTING 712 BUSINESS CARDS 225-2120-42200	06/24/2022 pziemer	07/06/2022	31.00 31.00	31.00	Open	N 07/06/2022
06616891-00 72060	GOODIN COMPANY COUPLINGS 237-3190-42220	06/10/2022 pziemer	07/06/2022	914.84 914.84	914.84	Open	N 07/06/2022
9351420931 72030	GRAINGER FOUNTAIN PUMP, 3/4 HP, 115V - GREGOR 230-5200-42220	06/21/2022 pziemer	07/06/2022	1,011.74 1,011.74	1,011.74	Open	N 07/06/2022
3032942 72009	HEARTLAND TIRE INC. SQD 432 TIRES 225-2120-42221	06/15/2022 pziemer	07/06/2022	780.44 780.44	780.44	Open	N 07/06/2022
3033241 72190	HEARTLAND TIRE INC. SQD 431 TIRES 225-2120-42221	06/28/2022 pziemer	07/06/2022	359.98 359.98	359.98	Open	N 07/06/2022
67346 72062	HOLDEN ELECTRIC ST & SWR REMODEL PAY APP 1 400-2001-45530	06/23/2022 pziemer	07/06/2022	5,500.00 5,500.00	5,500.00	Open	N 07/06/2022
67286 72077	HOLDEN ELECTRIC STREET GARAGE REMODEL - MOVE CONDUIT 400-2001-45530	06/21/2022 pziemer	07/06/2022	1,780.45 1,780.45	1,780.45	Open	N 07/06/2022
153503 72012	HRGREEN IMP 21-11 BRD MN MS4 UPDATE THRU 5/2 401-9030-43300-21:11	06/20/2022 pziemer	07/06/2022	1,773.00 1,773.00	1,773.00	Open	N 07/06/2022
153507 72013	HRGREEN IMP 21-15 BUFFALO HILLS GULLY THRU 5 401-9030-43300-21:15	06/20/2022 pziemer	07/06/2022	19,803.08 19,803.08	19,803.08	Open	N 07/06/2022
10378 72064	KIRVIDA FIRE INC E3 DRAIN VALVE 225-2220-42220	06/01/2022 pziemer	07/06/2022	396.88 396.88	396.88	Open	N 07/06/2022

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20220607 #522 72020	LAKES AREA MAT SERVICE INC CITY HALL FLOOR MATS 101-1940-43410	06/07/2022 pziemer	07/06/2022	44.08 44.08	44.08	Open	N 07/06/2022
20220621 #522 72021	LAKES AREA MAT SERVICE INC CITY HALL FLOOR MATS 101-1940-43410	06/21/2022 pziemer	07/06/2022	44.08 44.08	44.08	Open	N 07/06/2022
20220621 #520 72022	LAKES AREA MAT SERVICE INC POLICE DEPT FLOOR MATS 225-2120-43300	06/21/2022 pziemer	07/06/2022	42.92 42.92	42.92	Open	N 07/06/2022
20220607 #520 72023	LAKES AREA MAT SERVICE INC POLICE DEPT FLOOR MATS 225-2120-43300	06/07/2022 pziemer	07/06/2022	42.92 42.92	42.92	Open	N 07/06/2022
JUNE 2022 72016	LAKES AREA WILDLIFE CONTROL JUNE 22 ANIMAL CONTROL CONTRACT 225-2700-43300	06/21/2022 pziemer	07/06/2022	2,987.00 2,987.00	2,987.00	Open	N 07/06/2022
2048 72212	LANDSBURG LANDSCAPE NURSERY INC DOWNTOWN HANGING BASKETS - REMAINING 401-1003-43430	06/14/2022 pziemer	07/06/2022	2,892.94 2,892.94	2,892.94	Open	N 07/06/2022
7327 72054	LEAGUE MN CITIES INS TRUS LMC CA 109576 - 4/8/21 BACK INTO VEHL 280-9700-43470	06/20/2022 pziemer	07/06/2022	1,000.00 1,000.00	1,000.00	Open	N 07/06/2022
INV10068014 72061	MARCO MICROSOFT 365 5/16/22-6/15/22 101-1800-43309	06/17/2022 pziemer	07/06/2022	2,312.00 2,312.00	2,312.00	Open	N 07/06/2022
76279 72029	MENARDS 500 BLUE JAY COURT - MAIL BOX 235-3125-42220	06/10/2022 pziemer	07/06/2022	69.99 69.99	69.99	Open	N 07/06/2022
6/14/22 72052	MID-AM TEXTILES, INC QTY 2 CASE - BLUE BONDED CELLULOSE T 235-3100-42220	06/14/2022 pziemer	07/06/2022	148.00 148.00	148.00	Open	N 07/06/2022

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6/29/22 72207	MIDDAGH, SHAWN 2022 SAFETY BOOT REMIBURSEMENT 235-3100-42220	06/29/2022 pziemer REPAIR & MAINT	07/06/2022	117.50 117.50	117.50	Open	N 07/06/2022
9219604 72180	MIDWEST MACHINERY CO CHAPS SAFETY EQUIPMENT 230-5200-42210	06/27/2022 pziemer OPERATING SUPPLIES	07/06/2022	84.99 84.99	84.99	Open	N 07/06/2022
9223330 72208	MIDWEST MACHINERY CO CHAINSAW HANDLE REPAIR 235-3100-42220	06/29/2022 pziemer REPAIR & MAINT	07/06/2022	114.04 114.04	114.04	Open	N 07/06/2022
H 46086 72044	MINNESOTA T'S SEASONAL EMPLOYEE UNIFORM TEES 230-5200-42210	06/17/2022 pziemer OPERATING SUPPLIES	07/06/2022	30.00 30.00	30.00	Open	N 07/06/2022
P00015370 72211	MN DEPT OF TRANSPORTATION TRAFFIC SIGNAL MAINTENANCE 235-3100-42220	06/28/2022 pziemer REPAIR & MAINT	07/06/2022	1,370.31 1,370.31	1,370.31	Open	N 07/06/2022
5402600155 72011	MORTON SALT INC ROAD SALT 235-3125-42220	06/20/2022 pziemer REPAIR & MAINT	07/06/2022	2,100.25 2,100.25	2,100.25	Open	N 07/06/2022
5402600865 72026	MORTON SALT INC ROAD SALT 235-3125-42220	06/21/2022 pziemer REPAIR & MAINT	07/06/2022	2,029.99 2,029.99	2,029.99	Open	N 07/06/2022
5402601601 72035	MORTON SALT INC ROAD SALT 235-3125-42220	06/22/2022 pziemer REPAIR & MAINT	07/06/2022	4,102.47 4,102.47	4,102.47	Open	N 07/06/2022
5402599324 72045	MORTON SALT INC ROAD SALT 235-3125-42220	06/17/2022 pziemer REPAIR & MAINT	07/06/2022	2,033.26 2,033.26	2,033.26	Open	N 07/06/2022
5402602232 72069	MORTON SALT INC ROAD SALT 235-3125-42220	06/23/2022 pziemer REPAIR & MAINT	07/06/2022	2,094.53 2,094.53	2,094.53	Open	N 07/06/2022

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5402603775 72147	MORTON SALT INC ROAD SALT 235-3125-42220	06/27/2022 pziemer REPAIR & MAINT	07/06/2022	4,142.50 4,142.50	4,142.50	Open	N 07/06/2022
29214 72010	MOTORS-N-MORE SQD 436 OIL CHANGE 225-2120-42221	06/16/2022 pziemer SQUAD CAR REPAIR SUPPLIES	07/06/2022	23.00 23.00	23.00	Open	N 07/06/2022
29234 72191	MOTORS-N-MORE SQD 429 RADIATOR 225-2120-42221	06/27/2022 pziemer SQUAD CAR REPAIR SUPPLIES	07/06/2022	528.09 528.09	528.09	Open	N 07/06/2022
29240 72192	MOTORS-N-MORE SQD 429 REAR LIGHT CONNECTION 225-2120-42221	06/28/2022 pziemer SQUAD CAR REPAIR SUPPLIES	07/06/2022	54.50 54.50	54.50	Open	N 07/06/2022
29247 72206	MOTORS-N-MORE SQD 435 OIL CHANGE 225-2120-42221	06/29/2022 pziemer SQUAD CAR REPAIR SUPPLIES	07/06/2022	23.00 23.00	23.00	Open	N 07/06/2022
29668 72181	MR TIRE TIRE REPAIR 230-5200-42220	06/21/2022 pziemer REPAIR & MAINT	07/06/2022	44.26 44.26	44.26	Open	N 07/06/2022
30573 72152	NAGELL APPRAISAL & CONSULTING CAROL LANE LEGAL 401-1901-43300	06/27/2022 pziemer PROFESSIONAL SERVICES	07/06/2022	1,925.00 1,925.00	1,925.00	Open	N 07/06/2022
513368 72043	NAPA AUTO PARTS AXLE STUD CONE PLIERS 235-3100-42240	06/06/2022 pziemer SMALL TOOLS	07/06/2022	66.05 66.05	66.05	Open	N 07/06/2022
516773 72065	NAPA AUTO PARTS PREMIX FUEL 225-2220-42210	06/16/2022 pziemer OPERATING SUPPLIES	07/06/2022	116.48 116.48	116.48	Open	N 07/06/2022
516772 72066	NAPA AUTO PARTS WIPER BLADE 225-2220-42210	06/16/2022 pziemer OPERATING SUPPLIES	07/06/2022	24.72 24.72	24.72	Open	N 07/06/2022

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518997 72074	NAPA AUTO PARTS HYDRAULIC FITTINGS 235-3100-42220 REPAIR & MAINT	06/24/2022 pziemer	07/06/2022	484.60 484.60	484.60	Open	N 07/06/2022
519000 72075	NAPA AUTO PARTS PUTTY KNIFE 235-3100-42220 REPAIR & MAINT	06/24/2022 pziemer	07/06/2022	20.49 20.49	20.49	Open	N 07/06/2022
176815 72088	NORTH CENTRAL BUS SALES BRUSH - DOWNTOWN LILAC BRUSH 401-1003-43430 MISCELLANEOUS	06/27/2022 pziemer	07/06/2022	10.00 10.00	10.00	Open	N 07/06/2022
49580 72037	NORTHLAND FIRE PROTECTION PD ANNUAL SPRINKLER INSPECTION 225-2120-43300 PROFESSIONAL SERVICES	06/10/2022 pziemer	07/06/2022	225.00 225.00	225.00	Open	N 07/06/2022
49609 72053	NORTHLAND FIRE PROTECTION CITY HALL FIRE EXT. MAINTENANCE 101-1940-42220 REPAIR & MAINT	06/17/2022 pziemer	07/06/2022	251.00 251.00	251.00	Open	N 07/06/2022
49593 72087	NORTHLAND FIRE PROTECTION QTY 2 - #10 ABC EXTINGUISHERS 225-2120-42209 SAFETY EQUIPMENT SUPPLIES	06/17/2022 pziemer	07/06/2022	288.00 288.00	288.00	Open	N 07/06/2022
1113377-1 72017	OFFICE SHOP DISINFECTING WIPES - 101-1940-42200 OFFICE SUPPLIES	06/21/2022 pziemer	07/06/2022	19.63 19.63	19.63	Open	N 07/06/2022
1113377-0 72018	OFFICE SHOP LEGAL NOTEPADS 101-1940-42200 OFFICE SUPPLIES	06/17/2022 pziemer	07/06/2022	14.55 14.55	14.55	Open	N 07/06/2022
1113377-2 72019	OFFICE SHOP TISSUE 101-1940-42200 OFFICE SUPPLIES	06/21/2022 pziemer	07/06/2022	92.65 92.65	92.65	Open	N 07/06/2022
1113436-0 72031	OFFICE SHOP ENVELOPES - ADMIN 101-1940-42200 OFFICE SUPPLIES	06/21/2022 pziemer	07/06/2022	117.00 117.00	117.00	Open	N 07/06/2022

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1647-128437 72081	O'REILLY AUTOMOTIVE STORES INC. SQD 431 - HEADLIGHT BULB 225-2120-42221	06/24/2022 pziemer	07/06/2022	52.24 52.24	52.24	Open	N 07/06/2022
1647-128452 72082	O'REILLY AUTOMOTIVE STORES INC. SQD 429 - WASHER RESERVOIR CAP & WASHP 225-2120-42221	06/24/2022 pziemer	07/06/2022	7.62 7.62	7.62	Open	N 07/06/2022
1647-129038 72193	O'REILLY AUTOMOTIVE STORES INC. SQD 429 BULBS 225-2120-42221	06/27/2022 pziemer	07/06/2022	11.39 11.39	11.39	Open	N 07/06/2022
3105572428 72173	PITNEY BOWES INC POSTAGE MACHINE 4/30/22-7/29/22 101-1940-43331	06/25/2022 pziemer	07/06/2022	398.82 398.82	398.82	Open	N 07/06/2022
MAY 2022 72210	RATWIK, ROSZAK AND MALONEY MAY 2022 RETAINER/SPECIAL SERVICES 101-1610-43301 101-1610-43301 401-1901-43300 401-1609-43300 101-0000-14100	06/01/2022 pziemer	07/06/2022	15,118.25 4,767.11 5,067.55 4,316.45 869.14 98.00	15,118.25	Open	N 07/06/2022
JUNE 2022 72015	SEVERSON PORTER LAW JUNE 22 PROSECUTION AGREEMENT 225-2127-43310	06/21/2022 pziemer	07/06/2022	16,517.09 16,517.09	16,517.09	Open	N 07/06/2022
36752 72197	SHANNON'S AUTO BODY SQD 429 AUTO BODY REPAIRS 225-2120-42221	06/21/2022 pziemer	07/06/2022	4,306.05 4,306.05	4,306.05	Open	N 07/06/2022
427652 72039	SHORT ELLIOTT HENDRICKSON IMP 19-02 THRU 5/31/22 401-1902-43300	06/15/2022 pziemer	07/06/2022	21,910.63 21,910.63	21,910.63	Open	N 07/06/2022
426713 72040	SHORT ELLIOTT HENDRICKSON IMP 20-07 BRD MN I & I SEWER STUDY 401-9030-43300-20:07	06/22/2022 pziemer	07/06/2022	15,766.84 15,766.84	15,766.84	Open	N 07/06/2022
592 72195	SQUAD PRO C1 TRUCK - FEDERAL SIGNAL SIREN SPEAK pziemer	06/22/2022	07/06/2022	304.00	304.00	Open	N 07/06/2022

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	225-2220-42220	REPAIR & MAINT		304.00			
3510197670 72083	STAPLES ADVANTAGE OFFICE/EVIDENCE SUPPLIES 225-2120-42200 225-2120-42210	06/11/2022 pziemer OFFICE SUPPLIES OPERATING SUPPLIES	07/06/2022	107.74 25.28 82.46	107.74	Open	N 07/06/2022
2538 71991	STOUT HYDROSEEDING & FERTILIZING COLLEGE DRIVE ROUNDABOUTS- WEED KILLER 230-5200-42220	06/15/2022 pziemer REPAIR & MAINT	07/06/2022	1,000.00 1,000.00	1,000.00	Open	N 07/06/2022
2537 72042	STOUT HYDROSEEDING & FERTILIZING WEED CONTROL: MEMORIAL/MILLS/JAYCEES/pziemer 230-5200-42221 230-5200-42220	06/15/2022 pziemer R&M-ATHLETIC FIELD MAINT REPAIR & MAINT	07/06/2022	2,670.00 1,995.00 675.00	2,670.00	Open	N 07/06/2022
2536 72071	STOUT HYDROSEEDING & FERTILIZING WEED CONTROL JCP SOCCER FIELD 230-5200-42221	06/15/2022 pziemer R&M-ATHLETIC FIELD MAINT	07/06/2022	375.00 375.00	375.00	Open	N 07/06/2022
369213 72025	SULLIVAN CANDY & SUPPLY CONCESSIONS - NACH CHEESE, FLAVOR ICE 230-5204-42210	06/17/2022 pziemer OPERATING SUPPLIES	07/06/2022	183.28 183.28	183.28	Open	N 07/06/2022
2198 72199	TIM THOMPSON PLUMBING LLC MMP RETENTION POND PUMP REPAIR-INSTAIP 230-5200-42220	06/25/2022 pziemer REPAIR & MAINT	07/06/2022	2,175.00 2,175.00	2,175.00	Open	N 07/06/2022
128674-00 72177	UPPER LAKES FOODS INC CONCESSIONS - PICKLE SLICES, BURGERS,pziemer 230-5204-42210	06/24/2022 pziemer OPERATING SUPPLIES	07/06/2022	786.61 786.61	786.61	Open	N 07/06/2022
2869500 72047	VIKING COCA COLA BOTTLING CO CONCESSIONS - MMP BEVERAGES 230-5204-42210	06/15/2022 pziemer OPERATING SUPPLIES	07/06/2022	449.50 449.50	449.50	Open	N 07/06/2022
2869498 72048	VIKING COCA COLA BOTTLING CO CONCESSIONS - BAP BEVERAGES 230-5204-42210	06/15/2022 pziemer OPERATING SUPPLIES	07/06/2022	183.00 183.00	183.00	Open	N 07/06/2022
25X01224 72175	WASTE PARTNERS INC MAY 2022 LIBRARY WASTE REMOVAL 211-5500-43380	06/01/2022 pziemer UTILITIES	07/06/2022	91.80 91.80	91.80	Open	N 07/06/2022

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039497 72084	WEST BRAINERD AUTO SERVICE SQD 429 - TOW 225-2120-42221	06/23/2022 pziemer	07/06/2022	20.00 20.00	20.00	Open	N 07/06/2022
	SQUAD CAR REPAIR SUPPLIES			20.00			
12173 72032	WINNERS TROPHY MEMORIAL TREE PLAQUE 230-5200-42220	06/18/2022 pziemer	07/06/2022	35.00 35.00	35.00	Open	N 07/06/2022
	REPAIR & MAINT			35.00			
12194 72178	WINNERS TROPHY QTY 2 CITY COUNCIL TOWER AWARDS 101-1110-43430	06/27/2022 pziemer	07/06/2022	110.00 110.00	110.00	Open	N 07/06/2022
	MISCELLANEOUS			110.00			
R-018999-000-9 72033	WSB & ASSOCIATES MISSISSIPPI LANDING TRAILHEAD MAY 2022 401-9030-43300-21:16	06/22/2022 pziemer	07/06/2022	3,697.50 3,697.50	3,697.50	Open	N 07/06/2022
	PROFESSIONAL SERVICES			3,697.50			
IN000589512 72070	ZIEGLER, INC LOADER 114 HEADLIGHT 235-3100-42220	06/24/2022 pziemer	07/06/2022	160.29 160.29	160.29	Open	N 07/06/2022
	REPAIR & MAINT			160.29			
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6/3/22 72100	AMAZON AMAZON WEB SERVICES MAY 2022 101-1800-43309	06/03/2022 pziemer	07/06/2022	196.66 196.66	196.66	Open	N 07/06/2022
	COMPUTER SUPPORT			196.66			
6/10/22 72105	AMAZON WIRELESS MOUSE - TRANSIT 203-9000-42200	06/10/2022 pziemer	07/06/2022	69.79 69.79	69.79	Open	N 07/06/2022
	OFFICE SUPPLIES			69.79			
5/31/22 72106	AMAZON IPAD CASE & SCREEN PROTECTOR 101-1800-42210	06/01/2022 pziemer	07/06/2022	76.20 76.20	76.20	Open	N 07/06/2022
	OPERATING SUPPLIES			76.20			
5/31/22 72108	APPLE LEAF SNAP - PLANT IDENTIFICATION APP 101-2400-43309	06/01/2022 pziemer	07/06/2022	28.04 28.04	28.04	Open	N 07/06/2022
	COMPUTER TECHNICAL SUPPORT			28.04			
6/7/22 72102	DEPARTMENT OF NATURAL RESOURCES MSP LANDING - WATER PERMIT 401-9030-43430-21:16	06/07/2022 pziemer	07/06/2022	300.00 300.00	300.00	Open	N 07/06/2022
	MISCELLANEOUS			300.00			

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6/21/22 72104	LANDSBURG LANDSCAPE NURSERY INC REPLACE PLANTS AFTER STORM - DOWNTOWN 401-1003-43430	06/21/2022 pziemer MISCELLANEOUS	07/06/2022	45.12 45.12	45.12	Open	N 07/06/2022
6/7/22 72109	LANDSBURG LANDSCAPE NURSERY INC DOWNTOWN LANDSCAPING PLANTS 401-1003-43430	06/07/2022 pziemer MISCELLANEOUS	07/06/2022	137.82 137.82	137.82	Open	N 07/06/2022
6/6/22 72110	LANDSBURG LANDSCAPE NURSERY INC DOWNTOWN LANDSCAPING PLANTS 401-1003-43430	06/06/2022 pziemer MISCELLANEOUS	07/06/2022	992.67 992.67	992.67	Open	N 07/06/2022
6/7/22 72103	MNCPA C. HILLMAN PROF. DEVELOPMENT 101-1400-43330	06/07/2022 pziemer PROFESSIONAL DEVELOPMENT	07/06/2022	935.00 935.00	935.00	Open	N 07/06/2022
06/12/22 72111	SURVEY MONKEY ANNUAL SUBSCRIPTION RENEWAL 101-9200-43430	06/12/2022 pziemer MISCELLANEOUS	07/06/2022	384.00 384.00	384.00	Open	N 07/06/2022
6/19/22 72107	VIMEO VIMEO PLUS 2022 SUBSCRIPTION 101-1800-43309	06/19/2022 pziemer COMPUTER SUPPORT	07/06/2022	84.00 84.00	84.00	Open	N 07/06/2022
6/18/22 72099	ZOOM VIDEO COMMUNICATIONS ZOOM 6/18/22-7/17/22 101-1800-43309	06/18/2022 pziemer COMPUTER SUPPORT	07/06/2022	29.98 29.98	29.98	Open	N 07/06/2022
Total PCard: 2257 U.S. BANK Card Holder: CITY HALL				3,279.28	3,279.28		

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PCard: 2257 U.S. BANK Card Holder: FIRE							
6/6/22 72168	ACTIVE911 INC ACTIVE 911 PAGING 225-2220-43433	06/06/2022 pziemer	07/06/2022	600.00 600.00	600.00	Open	N 07/06/2022
	DUES & SUBSCRIPTIONS						
6/13/22 72169	ACTIVE911 INC ALERTING SUBSCRIPTION - AIRPORT 260-9020-43300	06/13/2022 pziemer	07/06/2022	62.50 62.50	62.50	Open	N 07/06/2022
	PROFESSIONAL SERVICES						
6/20/22 72170	AMAZON FUNCTIONAL FIRE COMPANY 225-2220-43435	06/20/2022 pziemer	07/06/2022	56.60 56.60	56.60	Open	N 07/06/2022
	BOOKS & PAMPHLETS						
6/21/22 72171	AMAZON LUBE/GREASE 225-2220-42210 225-2220-42210	06/21/2022 pziemer	07/06/2022	8.96 4.48 4.48	8.96	Open	N 07/06/2022
	OPERATING SUPPLIES OPERATING SUPPLIES						
6/7/22 72167	GREENHECK AUTO GLASS LLC C1 - WINDSHIELD 225-2220-42220	06/07/2022 pziemer	07/06/2022	255.00 255.00	255.00	Open	N 07/06/2022
	REPAIR & MAINT						
5/27/22 72198	HOME DEPOT VACUUM CLEANER FILTER 225-2220-42210	06/01/2022 pziemer	07/06/2022	19.97 19.97	19.97	Open	N 07/06/2022
	OPERATING SUPPLIES						
6/12/22 72166	LINX PVC PATCH 225-2220-41113	06/12/2022 pziemer	07/06/2022	222.00 222.00	222.00	Open	N 07/06/2022
	UNIFORM ALLOWANCE						
6/23/22 72172	USPS STAMPS 225-2220-43322	06/23/2022 pziemer	07/06/2022	118.00 118.00	118.00	Open	N 07/06/2022
	POSTAGE						
Total PCard: 2257 U.S. BANK Card Holder: FIRE				1,343.03	1,343.03		

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

5/25/22							
72201	DEMCO INC	06/01/2022	07/06/2022	270.04	270.04	Open	N
	LIBRARY SUPPLIES	pziemer					07/06/2022
	211-5503-43430	MISC - USE OF HOLDEN TRUST		270.04			
6/4/22							
72202	MAILCHIMP	06/04/2022	07/06/2022	34.00	34.00	Open	N
	MAIL CHIMP SERVICE	pziemer					07/06/2022
	211-5503-43430	MISC - USE OF HOLDEN TRUST		34.00			
Total PCard: 2257 U.S. BANK Card Holder: LIBRARY				304.04	304.04		

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PCard: 2257 U.S. BANK Card Holder: PARKS							
5/25/22 72156	COSTCO CONCESSIONS - BUNS, ICE 230-5204-42210	06/01/2022 pziemer OPERATING SUPPLIES	07/06/2022	22.53 22.53	22.53	Open	N 07/06/2022
6/2/22 72157	COSTCO RETURN - KIDS FISHING CLINIC SUPPLIES 230-5211-42210	06/02/2022 pziemer OPERATING SUPPLIES	07/06/2022	(39.98) (39.98)	(39.98)	Open	N 07/06/2022
6/2/22 - 2 72158	COSTCO CONCESSIONS - CHIPS, ICE, BANDAIDS 230-5204-42210 230-5200-42210	06/02/2022 pziemer OPERATING SUPPLIES OPERATING SUPPLIES	07/06/2022	196.66 140.70 55.96	196.66	Open	N 07/06/2022
6/2/22 - 3 72159	COSTCO CONCESSIONS & JANITORIAL SUPPLIES 230-5204-42210 230-5200-42210	06/02/2022 pziemer OPERATING SUPPLIES OPERATING SUPPLIES	07/06/2022	471.46 414.49 56.97	471.46	Open	N 07/06/2022
6/6/22 72161	COSTCO CONCESSIONS - CONDIMENTS 230-5204-42210	06/06/2022 pziemer OPERATING SUPPLIES	07/06/2022	17.17 17.17	17.17	Open	N 07/06/2022
6/7/22 72162	COSTCO CONCESSIONS - BUNS, MOSQUITO SPRAY - 230-5204-42210 230-5200-42210	06/07/2022 pziemer OPERATING SUPPLIES OPERATING SUPPLIES	07/06/2022	72.18 33.21 38.97	72.18	Open	N 07/06/2022
6/20/22 72163	COSTCO CONCESSIONS - WATER, BUNS 230-5204-42210	06/20/2022 pziemer OPERATING SUPPLIES	07/06/2022	24.54 24.54	24.54	Open	N 07/06/2022
6/24/22 72164	COSTCO CONCESSIONS - PAPER TOWELS, CHIPS, H 230-5204-42210	06/24/2022 pziemer OPERATING SUPPLIES	07/06/2022	196.69 196.69	196.69	Open	N 07/06/2022
6/23/22 72165	HARBOR FREIGHT TOOLS TRASH PICK UP TOOL 230-5200-42220	06/23/2022 pziemer REPAIR & MAINT	07/06/2022	29.97 29.97	29.97	Open	N 07/06/2022

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Inv Ref#	Description	Entered By					Post Date
	GL Distribution						
PCard: 2257 U.S. BANK Card Holder: PARKS							
6/3/22							
72160	WALMART COMMUNITY/GEGRB	06/03/2022	07/06/2022	100.32	100.32	Open	N
	CONCESSIONS - BUNS	pziemer					07/06/2022
	230-5204-42210	OPERATING SUPPLIES		100.32			
Total PCard: 2257 U.S. BANK Card Holder: PARKS				1,091.54	1,091.54		

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PCard: 2257 U.S. BANK Card Holder: POLICE							
6/3/22 72132	ABRA - BRAINERD SQD 436 - AUTO BODY REPAIR 225-2120-42221	06/14/2022 pziemer	07/06/2022	400.00 400.00	400.00	Open	N 07/06/2022
	SQUAD CAR REPAIR SUPPLIES						
6/20/22 72141	ABRA - BRAINERD SQD 432 AUTOBODY REPAIRS 225-2120-42221	06/22/2022 pziemer	07/06/2022	275.00 275.00	275.00	Open	N 07/06/2022
	SQUAD CAR REPAIR SUPPLIES						
5/24/22 72112	AMAZON HANGARS/DISPLAY PROTECTORS 225-2120-42220 225-2120-42200	06/01/2022 pziemer	07/06/2022	28.08 19.99 8.09	28.08	Open	N 07/06/2022
	REPAIR & MAINT OFFICE SUPPLIES						
5/31/22 72116	BCA - MNJIS SECTION CREDIT - 721 CXLD USE OF FORCE :MENT 225-2120-43330	06/01/2022 pziemer	07/06/2022	(75.00) (75.00)	(75.00)	Open	N 07/06/2022
	PROFESSIONAL DEVELOPMENT						
5/31/22 - 2 72117	BCA - MNJIS SECTION J. MCCULLOUGH - BCA CJIS USER'S CONFF 225-2120-43330	06/01/2022 pziemer	07/06/2022	275.00 275.00	275.00	Open	N 07/06/2022
	PROFESSIONAL DEVELOPMENT						
5/31/22 - 3 72118	BCA - MNJIS SECTION M. HALVERSON - BCA CJIS USER'S CONFF 225-2120-43330	06/01/2022 pziemer	07/06/2022	275.00 275.00	275.00	Open	N 07/06/2022
	PROFESSIONAL DEVELOPMENT						
6/23/22 72143	CUB FOODS - BRAINERD TRAINING SUPPLIES 225-2120-43330	06/23/2022 pziemer	07/06/2022	10.47 10.47	10.47	Open	N 07/06/2022
	PROFESSIONAL DEVELOPMENT						
6/9/22 72127	CWC SANITARY LANDFILL PICNIC TABLE DISPOSAL 225-2120-43430	06/09/2022 pziemer	07/06/2022	10.00 10.00	10.00	Open	N 07/06/2022
	MISCELLANEOUS						
6/17/22 72138	DAHLHEIMER BEVERAGE SQUAD WASH 225-2120-42221	06/17/2022 pziemer	07/06/2022	75.15 75.15	75.15	Open	N 07/06/2022
	SQUAD CAR REPAIR SUPPLIES						
6/7/22 72124	FACEBOOK POLICE OFFICER EMPLOYMENT AD 225-2120-43350	06/07/2022 pziemer	07/06/2022	35.00 35.00	35.00	Open	N 07/06/2022
	PRINTING/LEGAL PUBLICATION						

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PCard: 2257 U.S. BANK Card Holder: POLICE							
6/11/22 72129	FACEBOOK POLICE OFFICER EMPLOYMENT AD 225-2120-43350	06/11/2022 pziemer	07/06/2022	35.00 35.00	35.00	Open	N 07/06/2022
	PRINTING/LEGAL PUBLICATION			35.00			
6/16/22 72137	FACEBOOK POLICE OFFICER EMPLOYMENT AD 225-2120-43350	06/16/2022 pziemer	07/06/2022	50.00 50.00	50.00	Open	N 07/06/2022
	PRINTING/LEGAL PUBLICATION			50.00			
6/24/22 72144	FACEBOOK POLICE OFFICER EMPLOYMENT AD 225-2120-43350	06/24/2022 pziemer	07/06/2022	75.00 75.00	75.00	Open	N 07/06/2022
	PRINTING/LEGAL PUBLICATION			75.00			
6/14/22 72133	FLEET FARM CLEANING TOWELS 225-2120-42220	06/14/2022 pziemer	07/06/2022	21.98 21.98	21.98	Open	N 07/06/2022
	REPAIR & MAINT			21.98			
6/1/22 72121	J. GARDNER & ASSC. TATTOOS 225-2120-43305	06/01/2022 pziemer	07/06/2022	570.00 570.00	570.00	Open	N 07/06/2022
	CRIME PREVENTION PROGRAM			570.00			
6/21/22 72139	JERSEY MIKE'S SUBS 24037 JUNE 2022 LUNCH AND LEARN 278-6515-43430	06/21/2022 pziemer	07/06/2022	541.30 541.30	541.30	Open	N 07/06/2022
	MISCELLANEOUS			541.30			
6/6/22 72122	MINNESOTA SHERIFF'S ASSOCIATION 725 - STREET OFFICER RESPONSE TO CIVI 225-2120-43330	06/06/2022 pziemer	07/06/2022	125.00 125.00	125.00	Open	N 07/06/2022
	PROFESSIONAL DEVELOPMENT			125.00			
6/9/22 72145	MUDDY BIKES BIKE PATROL EQUIPMENT SEATS 225-2125-43430	06/09/2022 pziemer	07/06/2022	56.78 56.78	56.78	Open	N 07/06/2022
	MISC - BIKE PATROL			56.78			
6/14/22 72134	NARTEC, INC DRUG TESTING KITS 225-2120-42210	06/14/2022 pziemer	07/06/2022	362.78 362.78	362.78	Open	N 07/06/2022
	OPERATING SUPPLIES			362.78			
5/24/22 72113	QUILL CORPORATION COPY PAPER 225-2120-42200	06/01/2022 pziemer	07/06/2022	158.92 158.92	158.92	Open	N 07/06/2022
	OFFICE SUPPLIES			158.92			

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6/14/22 72135	SIRCHIE FINGER PRINT LABORATORIES, EVIDENCE SUPPLIES 225-2120-42210	06/14/2022 pziemer OPERATING SUPPLIES	07/06/2022	479.29 479.29	479.29	Open	N 07/06/2022
6/6/22 72128	SPRINGHILL SUITES 702 - FBI LEEDA 225-2120-43330	06/06/2022 pziemer PROFESSIONAL DEVELOPMENT	07/06/2022	493.93 493.93	493.93	Open	N 07/06/2022
6/8/22 72126	SPYPOINT ANNUAL CAMERA MONITORING FEE 225-2120-43309	06/08/2022 pziemer COMPUTER TECHNICAL SUPPORT	07/06/2022	120.00 120.00	120.00	Open	N 07/06/2022
6/1/22 72120	TRANSUNION RISK MAY 2022 INVESTIGATIONS & PARKING TI 225-2120-42210	06/01/2022 pziemer OPERATING SUPPLIES	07/06/2022	75.00 75.00	75.00	Open	N 07/06/2022
5/25/22 72114	USPS POSTAGE 225-2120-43322	06/01/2022 pziemer POSTAGE	07/06/2022	9.00 9.00	9.00	Open	N 07/06/2022
5/27/22 72115	USPS POSTAGE 225-2120-43322	06/01/2022 pziemer POSTAGE	07/06/2022	2.76 2.76	2.76	Open	N 07/06/2022
6/1/22 72119	USPS POSTAGE 225-2120-43322	06/01/2022 pziemer POSTAGE	07/06/2022	15.40 15.40	15.40	Open	N 07/06/2022
6/6/22 72123	USPS POSTAGE 225-2120-43322	06/06/2022 pziemer POSTAGE	07/06/2022	4.50 4.50	4.50	Open	N 07/06/2022
6/7/22 72125	USPS POSTAGE 225-2120-43322	06/07/2022 pziemer POSTAGE	07/06/2022	16.10 16.10	16.10	Open	N 07/06/2022
6/13/22 72130	USPS POSTAGE 225-2120-43322	06/13/2022 pziemer POSTAGE	07/06/2022	5.10 5.10	5.10	Open	N 07/06/2022

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

6/13/22 - 2							
72131	USPS	06/13/2022	07/06/2022	8.70	8.70	Open	N
	POSTAGE	pziemer					07/06/2022
	225-2120-43322	POSTAGE		8.70			

6/15/22							
72136	USPS	06/15/2022	07/06/2022	4.50	4.50	Open	N
	POSTAGE	pziemer					07/06/2022
	225-2120-43322	POSTAGE		4.50			

6/21/22							
72140	USPS	06/21/2022	07/06/2022	24.65	24.65	Open	N
	POSTAGE	pziemer					07/06/2022
	225-2120-43322	POSTAGE		24.65			

6/22/22							
72142	USPS	06/22/2022	07/06/2022	116.00	116.00	Open	N
	POSTAGE STAMPS	pziemer					07/06/2022
	225-2120-43322	POSTAGE		116.00			

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

4,680.39	4,680.39
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PCard: 2257 U.S. BANK Card Holder: STREETS

6/15/22 72101	LOGO SPORTSWEAR HI VIS HATS - STREET DEPT 235-3100-43430	06/15/2022 pziemer	07/06/2022	244.70	244.70	Open	N 07/06/2022
	MISCELLANEOUS			244.70			

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

# of Invoices:	188	# Due:	188	Totals:	193,643.55	193,643.55
# of Credit Memos:	4	# Due:	4	Totals:	(169.90)	(169.90)
Net of Invoices and Credit Memos:					193,473.65	193,473.65

--- TOTALS BY GL DISTRIBUTION ---

101-0000-14100	DUE FROM COMPONENT UNIT	98.00
101-0000-20803	WATERTOWER DONATIONS-CC	276.50
101-0000-22800	OTHER LIABILITIES	76.20
101-1110-43430	MISCELLANEOUS	110.00
101-1400-43330	PROFESSIONAL DEVELOPMENT	935.00
101-1610-43301	CITY ATTORNEY	9,834.66
101-1800-42210	OPERATING SUPPLIES	76.20
101-1800-43309	COMPUTER SUPPORT	2,622.64
101-1940-42200	OFFICE SUPPLIES	243.83
101-1940-42220	REPAIR & MAINT	251.00
101-1940-43300	PROFESSIONAL SERVICES	1,826.77
101-1940-43331	LEASE PAYMENTS	398.82
101-1940-43410	RENTAL EXPENSE	88.16
101-2400-43309	COMPUTER TECHNICAL SUPPORT	28.04
101-2400-43330	PROFESSIONAL DEVELOPMENT	65.00
101-9200-43430	MISCELLANEOUS	884.00
203-9000-42200	OFFICE SUPPLIES	69.79
203-9000-45550	CAPITAL - VEHICLES	1,060.00
211-5500-42220	REPAIR & MAINT	153.00
211-5500-43380	UTILITIES	91.80
211-5503-43430	MISC - USE OF HOLDEN TRUST	304.04
211-5505-43430	MISC - COPY MACHINE PYMTS	105.91
223-2140-43432	UNDERCOVER SUPPLIES	18.35
225-2120-42200	OFFICE SUPPLIES	223.29
225-2120-42209	SAFETY EQUIPMENT SUPPLIES	288.00
225-2120-42210	OPERATING SUPPLIES	1,086.65
225-2120-42220	REPAIR & MAINT	41.97
225-2120-42221	SQUAD CAR REPAIR SUPPLIES	6,936.65
225-2120-43300	PROFESSIONAL SERVICES	1,609.77
225-2120-43305	CRIME PREVENTION PROGRAM	570.00
225-2120-43309	COMPUTER TECHNICAL SUPPORT	120.00
225-2120-43322	POSTAGE	206.71
225-2120-43330	PROFESSIONAL DEVELOPMENT	17,568.61
225-2120-43350	PRINTING/LEGAL PUBLICATION	195.00
225-2120-43380	UTILITIES	46.80
225-2120-43430	MISCELLANEOUS	10.00
225-2125-43430	MISC - BIKE PATROL	56.78
225-2127-43310	MISDEMEANOR PROSECUTOR	16,517.09

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	GL Distribution						
225-2220-41113	UNIFORM ALLOWANCE			222.00			
225-2220-42210	OPERATING SUPPLIES			1,209.13			
225-2220-42220	REPAIR & MAINT			955.88			
225-2220-43300	PROFESSIONAL SERVICES			246.33			
225-2220-43309	COMPUTER TECHNICAL SUPPORT			1,068.65			
225-2220-43322	POSTAGE			118.00			
225-2220-43331	LEASED PAYMENTS			111.35			
225-2220-43380	UTILITIES			15.80			
225-2220-43433	DUES & SUBSCRIPTIONS			600.00			
225-2220-43435	BOOKS & PAMPHLETS			56.60			
225-2700-43300	PROFESSIONAL SERVICES			2,987.00			
227-3230-43428	USED OIL RECYCLING EXPENSE			50.00			
230-5200-42210	OPERATING SUPPLIES			266.89			
230-5200-42220	REPAIR & MAINT			6,793.05			
230-5200-42221	R&M-ATHLETIC FIELD MAINT			2,370.00			
230-5204-42210	OPERATING SUPPLIES			2,685.82			
230-5211-42210	OPERATING SUPPLIES			(39.98)			
235-3100-42220	REPAIR & MAINT			3,374.37			
235-3100-42240	SMALL TOOLS			66.05			
235-3100-43300	PROFESSIONAL SERVICES			246.33			
235-3100-43430	MISCELLANEOUS			441.93			
235-3125-42220	REPAIR & MAINT			16,684.36			
235-3170-42210	OPERATING SUPPLIES			3,359.80			
237-3190-42220	O STREET SANITARY REPAIR FITTINGS			925.53			
238-3160-42220	REPAIR & MAINT			26.06			
260-9020-43300	PROFESSIONAL SERVICES			62.50			
278-6515-43430	MISCELLANEOUS			541.30			
280-9700-43470	UNINSURED LOSSES			1,000.00			
400-2001-45530	PYMTS TO CONTRACTORS			7,280.45			
401-1003-43430	MISCELLANEOUS			4,087.54			
401-1609-43300	PROFESSIONAL SERVICES			869.14			
401-1901-43300	PROFESSIONAL SERVICES			6,241.45			
401-1902-43300	PROFESSIONAL SERVICES			21,910.63			
401-9030-43300-20:07	PROFESSIONAL SERVICES			15,766.84			
401-9030-43300-21:11	PROFESSIONAL SERVICES			1,773.00			
401-9030-43300-21:15	PROFESSIONAL SERVICES			19,803.08			
401-9030-43300-21:16	PROFESSIONAL SERVICES			3,697.50			
401-9030-43430-21:16	MISCELLANEOUS			504.24			

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--- TOTALS BY FUND ---							
	101 - GENERAL FUND			17,814.82	17,814.82		
	203 - TRANSIT FUND			1,129.79	1,129.79		
	211 - LIBRARY FUND			654.75	654.75		
	223 - DRUG FORFEITURE			18.35	18.35		
	225 - PUBLIC SAFETY FUND			53,068.06	53,068.06		
	227 - RECYCLING FUND			50.00	50.00		
	230 - PARK & RECREATION FUND			12,075.78	12,075.78		
	235 - STREET & SEWER FUND			24,172.84	24,172.84		
	237 - SANITARY SEWER FUND			925.53	925.53		
	238 - STORM SEWER FUND			26.06	26.06		
	260 - AIRPORT FUND			62.50	62.50		
	278 - HEALTHY EMPLOYE INITIATIVE			541.30	541.30		
	280 - PACKAGE INSURANCE FUND			1,000.00	1,000.00		
	400 - CAPITAL PROJECTS FUND			7,280.45	7,280.45		
	401 - CONSTRUCTION FUND			74,653.42	74,653.42		
--- TOTALS BY DEPT/ACTIVITY ---							
	0000 -			450.70	450.70		
	1003 - 10:03 DWNTWN MAIN CNTRACT			4,087.54	4,087.54		
	1110 - MAYOR & COUNCIL			110.00	110.00		
	1400 - ADMINISTRATION			935.00	935.00		
	1609 - 16:09 BUFFALO HILLS RECON			869.14	869.14		
	1610 - LEGAL-CIVIL ATTORNEY			9,834.66	9,834.66		
	1800 - IT/GIS			2,698.84	2,698.84		
	1901 - 19:01 NW 4TH STREET IMPR			6,241.45	6,241.45		
	1902 - 19:02 CLST CONNECTION			21,910.63	21,910.63		
	1940 - CITY HALL			2,808.58	2,808.58		
	2001 - STREET REMODEL/ADDITION			7,280.45	7,280.45		
	2120 - POLICE DEPARTMENT			28,903.45	28,903.45		
	2125 - BIKE PATROL PROGRAM			56.78	56.78		
	2127 - MISDEMEANOR PROSECUTOR			16,517.09	16,517.09		
	2140 - DRUG FORFEITURE			18.35	18.35		
	2220 - FIRE DEPARTMENT			4,603.74	4,603.74		
	2400 - COMMUNITY DEVL/INSPECTION			93.04	93.04		
	2700 - ANIMAL CONTROL			2,987.00	2,987.00		
	3100 - S & S MAINTENANCE			4,128.68	4,128.68		
	3125 - SNOW REMOVAL			16,684.36	16,684.36		
	3160 - STORM SEWER EXPENSE			26.06	26.06		
	3170 - TRAFFIC CONTROL			3,359.80	3,359.80		
	3190 - SANITARY SEWER EXPENSE			925.53	925.53		
	3230 - RECYCLING EXPENSE			50.00	50.00		
	5200 - PARK MAIN/ADMINISTRATION			9,429.94	9,429.94		

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Inv Ref#	Description	Entered By					Post Date
GL Distribution							
--- TOTALS BY DEPT/ACTIVITY ---							
	5204 - CONCESSIONS			2,685.82	2,685.82		
	5211 - SPECIAL EVENTS PROGRAM			(39.98)	(39.98)		
	5500 - LIBRARY-BUDGETED			244.80	244.80		
	5503 - HOLDEN TRUST DONATION USE			304.04	304.04		
	5505 - TAXABLE FEES			105.91	105.91		
	6515 - HEALTHY EMPLOYE INITIATIVE			541.30	541.30		
	9000 - TRANSIT FUND			1,129.79	1,129.79		
	9020 - AIRPORT M & O			62.50	62.50		
	9030 - CONSTRUCTION PROJ-MISC			41,544.66	41,544.66		
	9200 - CITY-WIDE			884.00	884.00		
	9700 - PACKAGE INSURANCE			1,000.00	1,000.00		

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: Erickson, O'Day, Stunek, Johnson, Pritschet, Stenglein, 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 STUNEK AND STENGLEIN, DULY CARRIED, TO APPROVE THE AGENDA.

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

- A. **Approval of Bills- Approved**
- B. **Approval of Minutes of the Regular City Council Meeting held on May 16th, 2022- Approved**
- C. **Approval of Licenses- Approved**
- D. **Department Activity Reports- Approved**
- E. **2021 Audits for BPU and Brainerd HRA**
- F. **Ratify the Promotion of David Nelson to the Water Service Worker Position**

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

Community Member of the Month

Mayor Badeaux was honored to recognize Meta Mandich and Emily Rolfson as Community Members of the Month for June. He recognized their leadership and hard work in making the splashpad project a reality. These women recognized a need in the community and saw it through.

Emily thanked the City Council and Mayor for helping to make the splash pad a reality. Former Council Member and Mayor Cumberland was her high school teacher who encouraged her to never give up on a goal.

Council Committee Reports

Personnel and Finance Committee

Consider Cable Channel Agreement with CLC

Committee Chair Johnson stated that IT Director Strong has done a lot of work to bring meetings back to cable. Potentially the City could be back on cable by the first meeting in July.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED TO ENTER INTO AGREEMENT WITH CENTRAL LAKES COLLEGE TO HOST AND OPERATE THE CABLE CHANNEL.

Consider Share Services Agreement with Crow Wing County

Committee Chair Johnson stated that in 2021 the City used 1,350 hours of the 1,500 contracted. In 2023 the fee will increase by 8% after being flat for 2021 and 2022.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED TO AUTHORIZE SIGNATURE ON THE AGREEMENT AMENDMENT FOR THE 2023 SHARED MAINTENANCE SERVICES AGREEMENT.

Consider Declaring Lakes Area Music Festival Annual Event a Community Festival

Committee Chair Johnson stated that the school district is still deciding on whether or not to allow alcohol in the schools. The Lakes Area Music Festival events need to be a Community Festival to be able to serve at all of their events.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED TO CONSIDER THE ANNUAL THE LAKES AREA MUSIC FESTIVAL EVENTS THAT RUNS FOR 24 DAYS AS A COMMUNITY FESTIVAL, THEREBY ALLOWING LAKES AREA MUSIC FESTIVAL TO HOLD MORE THAN ONE (1) TEMPORARY LIQUOR LICENSE WITHIN A 30-DAY PERIOD; CONTINGENT ON THE SCHOOL DISTRICT DECISION ON ALLOWING ALCOHOL IN THE SCHOOLS.

Consider Request for American Rescue Plan Act (ARPA) Funds for EDA

Committee Chair Johnson requested that the City consider allocating \$80,000 in ARPA funds to use as match for applicants who may need additional assistance with the DEED Mainstreet Revitalization Program.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STENGLEIN, DULY CARRIED, TO AUTHORIZE THE ALLOCATION OF \$80,000 IN ARPA FUNDS TO THE EDA TO BE USED AS A MATCHING GRANT FUNDS TO ELIGIBLE ORGANIZATIONS OR BUSINESSES FOR THE DEED MAIN STREET REVITALIZATION PROGRAM.

Discussion on Use of American Rescue Plan Act (ARPA) Funds for Public Works Projects

Committee Chair Johnson stated that at the end of the February workshop Council had directed staff to make a priority list of all of the projects prior to allocating ARPA funds.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED TO DIRECT STAFF TO COME BACK TO COUNCIL WITH A LIST OF ALL POSSIBLE PROJECTS THE ARPA FUNDS CAN BE USED FOR.

Update on the Request for Funds to be Returned from Lakes Area Media Collaborative

Committee Chair Johnson stated that Attorney Langel sent a new letter which included more of the board members as recipients. There has not been a response from Lakes Area Media Collaborative.

Safety and Public Works

Approve Agreement Amendment for Improvement 19-02- Cuyuna Lakes State Trail Road and Parking Lot Improvements

Committee Chair O'Day stated that this work was unforeseen. The soil in the NP Center segment was found unsuitable for a trail. Mr. Higgins is working to remove the soil.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON, DULY CARRIED, TO APPROVE THE ATTACHED AGREEMENT AMENDMENT FOR THE SUBCUT WORK FOR IMPROVEMENT 19-02 - NP CENTER SITE IMPROVEMENTS AND AUTHORIZING PAYMENT TO MR. HIGGINS FOR THE WORK COMPLETED.

Approve Change Order 1 for Improvement 19-02- Cuyuna Lakes State Trail NP Center Segment

Committee Chair O'Day stated that Knife River has been supplying Mr. Higgins with fabric, sand, and topsoil to complete the subcut operations where the unsuitable materials were. The total change order amount for supplying these materials is \$45,640. This is a reimbursable expense through the MnDNR grant.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET, DULY CARRIED, TO APPROVE CHANGE ORDER 1 AS PRESENTED.

Approve Cooperative Construction Agreement with the State of Minnesota for the Highway 25 Bridge Project- SP-1811-35 (TH25-018)

Committee Chair O'Day stated the City was awarded federal money for the construction of the trail on the bridge, and MnDOT agreed to cover the 20% share that came along with that money, along with providing the engineering and expenses related to that for the project. The intent of this trail segment is to connect into the Highway 210 Improvements in 2026, along with connecting into the 28th Street Trail in which will be a part of the Cuyuna Lakes State Trail.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND ERICKSON TO ADOPT THE ATTACHED RESOLUTION IN WHICH ENTERS INTO THE AGREEMENT WITH MNDOT FOR THE BRIDGE REPLACEMENT PROJECT.

RESOLUTION 23:22

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

Resolution- Authorizing an Agreement with the State of Minnesota to Provide Public Transportation Services in the Year 2023

Committee Chair O'Day stated that Transit Coordinator Stone was at the committee meeting to give an overview of ridership, which is near what it was pre-covid. The agreement is the same as previous years with the local share of 5% of operating costs and 10% of capital costs.

MOVED AND SECONDED BY COUNCIL MEMBERS O'DAY AND PRITSCHET TO ADOPT RESOLUTION TO ALLOW PROPER SIGNATURES ON THE AGREEMENT WITH THE STATE OF MINNESOTA FOR TRANSPORTATION SERVICES.

RESOLUTION 24:22

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

Unfinished Business

Final Reading- Proposed Ordinance 1532- An Ordinance Amending the Brainerd City Charter

The Chair opened the public hearing at 7:49 p.m.

DeAnn Barry, 18610 Smith Road, The Center- Executive Director, stated that the addition of the Senior Center in the Charter was added after a referendum voted on by the citizens of Brainerd in 1982. She clarified the LGA funding that came into question previously, she has spoken with a member of Representative Ruud's staff about the City levying for non-profit organizations which is not a factor in LGA funding.

Darlene Stone, 2219 Buffalo Hills Lane, stated that she spoke with Mayor Badeaux, and thanked him for his kindness. She is proud of Ms. Barry and all of the work accomplished at the Center. The "Golden Years" aren't so golden and the Center is a place for seniors to belong. These citizens are taxpayers and voters.

Suzanne Hanson, 2302 Kermit Lane, stated that she does not believe any of the Council members are old enough to vote on this matter. The Council should take a tour of the Center before a decision is reached.

Karen Reither, 2131 Graydon Avenue, questioned that when something like this matter has been voted on by all citizens, why do few people get to decide now?

Dave Badeaux, 602 N 9th Street, Brainerd Community Action- Executive Director, stated that the Brainerd Community Action Board asked him to speak to thank the Council for the opportunity to continue working with the City. While the City needs to be fiscally responsible, he believes that Community Action put forth a robust proposal that they can deliver on in the next five years and hope to continue dialogue for the future.

The Chair closed the public hearing at 8:00 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND ERICKSON, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE NO. 1532 AN ORDINANCE AMENDING THE BRAINERD CITY CHARTER AND DISPENSE WITH THE ACTUAL READING OF THE ORDINANCE.

Member O'Day asked for clarification on what the Council is voting on within this ordinance for the record.

Administrator Bergman gave an overview of Ordinance 1532 the changes include changes to the ward language, election of officers following the oath of office during the first meeting in January, permanent improvement fund language, repealing the Streets Chapter, and deferment of assessments.

Member Stenglein stated she will be voting no because there are too many changes in one ordinance.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND O'DAY TO ADOPT ORDINANCE 1532- AN ORDINANCE AMENDING THE BRAINERD CITY CHARTER.

ORDINANCE 1532

Upon roll call, Council Members Erickson, O'Day, Johnson, and Bevans voted "aye". Members Stunek, Pritschet, and Stenglein voted "nay". The Chair declared the motion failed due to lack of a unanimous vote.

Final Reading- Proposed Ordinance 1533- An Ordinance Amending the Brainerd City Charter

Administrator Bergman gave an overview of the proposed change recommended by the Charter Commission to the Charter with Ordinance 1533 by striking sections 3-5 in Chapter 3 Finances in their entirety.

The Chair opened the public hearing at 8:09 p.m.

Dave Badeaux, 602 N 9th St, Brainerd Community Action, Executive Director, stated again for the record the organizations thanks for the opportunity to work with the City.

Kathy Touse, 14075 Firewood Drive, Baxter, President of the Center Board, stated that the public voted for the Center's funds originally, therefore, six people should not have the power to decide for a community. She also stated that when members from outside of the City come to the Center, they shop, eat, and do other activities while in town benefitting the City.

DeAnn Barry, 18610 Smith Road, stated that the Center is thankful for the opportunity to work with the City all these years. She stated that other documents like the Declaration of Independence and the Constitution still have relevance today even though they are hundreds of years old. Why then, should the vote that took place in 1982 not have relevance today.

The Chair closed the public hearing at 8:13 p.m.

Member O'Day stated that he is a member of the Charter Commission, he was on the fence about this discussion. He stated he has never seen an issue with the Center previous to the process of cleaning up the Charter. When the previous language change was proposed, the entire organization received misconstrued information. He stated that what needs to be discussed is whether a referendum is appropriate for Community Action and The Center from the Charter Commission.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND ERICKSON, DULY CARRIED, TO CONDUCT THE FINAL READING OF PROPOSED ORDINANCE NO. 1533 AN ORDINANCE AMENDING THE BRAINERD CITY CHARTER AND DISPENSE WITH THE ACTUAL READING OF THE ORDINANCE.

Member Stenglein stated that she would be voting no because it is an elected officials job to interact with the public and explain things. More importantly, that government is how communities come together and accomplish things it wants to do. Over the past several months it is clear that funding these organizations are what the community wants to do.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND ERICKSON TO ADOPT ORDINANCE 1533- AN ORDINANCE AMENDING THE BRAINERD CITY CHARTER.

ORDINANCE 1533

Upon roll call, Council Members Erickson, Johnson, and Bevans voted “aye”. Members O’Day, Stunek, Pritschet, and Stenglein voted “nay”. The Chair declared the motion failed due to lack of a unanimous vote.

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 – 2 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 – 1 position available

New Business

Consideration of Variance from Setback Standards- 521 N 9th Street

Community Development Director Kramvik stated the Planning Commission considered the requested variance is from Section 515-54-7. B Principal Building Setbacks. The applicant is requesting a reduced front yard setback from 20 feet to 12 feet for an addition that will be setback six inches from the primary structure. The proposed addition also includes a bay window that will extend an additional 2 feet into the required front yard setback. The Commission voted unanimously to recommend granting the requested variance without conditions.

MOVED AND SECONDED BY COUNCIL MEMBERS PRITSCHET AND ERICKSON, DULY CARRIED, TO APPROVE THE REQUESTED VARIANCE AT 521 N 9TH STREET.

Consideration of Variance from Setback Standards- 704 Norwood Street

Community Development Director Kramvik stated the Planning Commission considered the variance request during its regular meeting on June 15th. The Commission discussed the variance request and believed that it is consistent with the Comprehensive Plan and had practical difficulties that are unique to the site. The Commission voted unanimously to recommend granting the requested variance with the condition that staff approves a storm water management plan that diverts storm water from the neighboring south and east properties that will result from the construction of the accessory structure.

MOVED AND SECONDED BY COUNCIL MEMBERS ERICKSON AND O'DAY, DULY CARRIED, TO APPROVE THE REQUESTED VARIANCE AT 704 NORWOOD STREET.

First Reading- Interim Ordinance 1534- An Ordinance Instituting a Moratorium on the Conversion of Dwellings to Green Space or Surface Parking in the R-1 Zone

Community Development Director Kramvik stated this proposed Ordinance imposes a six-month moratorium on the conversion of dwelling units to green space or surface parking in the R-1 zoning district. The City has a shortage of housing, particularly affordable housing. Removal of dwelling units for the establishment of green space or surface parking adds to the overall shortage of housing. The Planning Commission and Staff need time to study this problem and develop changes to the Code to address this issue.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND STUNEK, DULY CARRIED, TO HOLD THE FIRST READING OF INTERIM ORDINANCE NO. 1534- AN ORDINANCE INSTITUTING A MORATORIUM ON THE CONVERSION OF DWELLINGS TO GREEN SPACE OR SURFACE PARKING IN THE R-1 ZONE AND DISPENSE WITH THE ACTUAL READING.

First Reading- Proposed Ordinance 1535- An Ordinance Amending City Code Section 515: Zoning Code and Zoning Map

Community Development Director Kramvik thanked everyone who have been involved in the Zoning Code revision process. He gave an overview of the process to further review the proposed zoning code and an overview of the changes made previous to coming back to the Council.

Member Johnson confirmed that there would be a public hearing at the second reading.

MOVED AND SECONDED BY COUNCIL MEMBERS JOHNSON AND ERICKSON, DULY CARRIED, TO HOLD THE FIRST READING OF INTERIM ORDINANCE NO. 1535- AN ORDINANCE AMENDING CITY CODE SECTION 515: ZONING CODE AND ZONING MAP.

Public Forum

The Chair opened public forum at 8:28 p.m.

Candice Zimmerman, 10246 County Road 44, Northland Arboretum, Executive Director, gave an update on the work group being formed. The cities of Brainerd and Baxter have agreed to meet with the Northland Arboretum. Crow Wing County respectfully declined to be a part of the workgroup. They are working to set a date to meet.

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

Staff Report

Finance Director Hillman stated that the City is seeking election judges, we have about half of the number of judges needed.

City Administrator Bergman stated that she attended the Flag Day Ceremony and Here for Good Market Business After Hours. Also, she was on Community Focus this week.

Council Member Reports

Member Johnson stated that the EDA held a special meeting on June 8th to prioritize criteria for the DEED Mainstreet Revitalization Program and select a subcommittee to develop the application. He hopes that all the businesses possible to apply for the dollars as we may be allocated more if other communities cannot commit projects. Finally, he heard from a constituent about flooding in his basement after the City did repairs to the alley, he would like to see the matter on Safety and Public Works at the next meeting.

Mayors Report

Mayor Badeaux stated that Brainerd Community Action has events 3 weeks in a row. The Pop Up Skatepark where the Lakes Area Skatepark Association received \$13,000 from Clow Stamping for a future skatepark. Arts in the Park at Gregory Park on June 26th, and the Independence Day Celebration for which the parade route will be backwards. Parking for the 4th of July may be complicated.

Adjourn to City Council and Public Utilities Commission Joint Workshop on Monday, June 27, 2022, at 5:00 p.m.

MOVED AND SECONDED BY COUNCIL MEMBERS STUNEK AND JOHNSON, DULY CARRIED, TO ADJOURN TO THE CITY COUNCIL PUBLIC UTILITIES COMMISSION JOINT WORKSHOP ON MONDAY JUNE 27, 2022, AT 5:00 P.M.

The Chair adjourned the meeting at 8:36 p.m.

Jennifer Bergman
City Administrator

Pursuant to due call and notice thereof, the Joint Workshop of the Brainerd City Council and Public Utilities Commission was called to order at 5:00 P.M. by Council President Bevans.

Upon roll call, the following members were noted as present: Erickson, O'Day, Stunek, Johnson, Stenglein, and Bevans. Mayor Badeaux was noted as present at 5:11 p.m. Members of the Public Utilities Commission noted as present were Angland, Wussow, and Matten at 5:07 p.m. Also present were City Administrator Bergman, HR Director Schubert, Finance Director Hillman, BPU Superintendent Magnuson, BPU Finance Director Wicklund, and HR Assistant Boser.

Discussion on the Draft Employee Policy Manual

HR Director Schubert gave an overview of the reasoning for the review of the Employee Policy Manual. She stated that the Employee Policy Manual was adopted in 2019, staff began work to revise the manual due to employment law changes and the desire by Department Head for more input. The changes were put on hold to accommodate time for the Charter changes that affected the manual. HR Director Schubert reviewed the major changes to the Employee Policy Manual for discussion.

Council and Commission discussion took place around changing the responsibility of BPU Department Head performance reviews to the City Administrator.

Member O'Day clarified whether there were employment law concerns previous to the charter revision. He also stated that aside from having Jennifer present for BPU Department Head reviews with members of the Commission, the day-to-day work of the Commission will not change.

BPU Finance Director Wicklund stated that he does not agree with the need for the City Administrator to conduct BPU Department Head performance reviews because he speaks weekly with members of the Public Utilities Commission (PUC) and feels they know his position and it dilutes the responsibilities of the Commission.

City Administrator Bergman stated that consistency is important for uniformity across all City employees. She stated that with the Charter changes, the only duties of the Commission that changed are personnel, the Commission is still in charge of all of the utility decisions. These changes are also being proposed for pay equity across departments.

HR Director Schubert stated that the last two vacant Department Head positions have had a hiring committee for filling the position. Also with, employment law and changes over the past 10 years or so, having consistency across all employees is the best way to minimize the City's possible liability exposure.

Member Johnson stated that a compromise could be to define how the hiring committees for Department Heads are comprised to guarantee the Commission is a part of discussion.

HR Director Schubert inquired if the City should consider a Work From Home Policy in the Employee Policy Manual. She noted that job applicants and current employees have inquired about the possibility.

Member Johnson stated the Work From Home Option is very common now in the private sector and felt it should be included.

Review of the Contribution Policy Between City Council and Public Utilities Commission

BPU Finance Director Wicklund stated that with the addition of two crypto mining operations in the City, BPU will have a lot of cost to get the companies online. He proposes reducing the industrial rate per kilowatt hour (kWh) for these two projects that is contributed to the City. That rate can be reviewed in 18 months once more is known regarding the crypto mining. He proposes that the rate be reduced from .0030 to .00025 with a review of the policy at one year. This is not a rate drop for the customer, it is a reduction in the contribution from BPU to the City for utility costs.

Discussion on the Use of the Roberts Land

BPU Superintendent Magnuson stated that the Roberts land sale is not final, it is still in review by the attorneys. He also stated that a modern water plant may be needed in the future. The ideal spot for a new plant would be on the west edge of the property. He is requesting that the City hold off on making plans to develop the land until the review of the current water plant is complete.

Adjourn

The Chair adjourned the workshop at 6:06 P.M.

Jennifer Bergman
City Administrator

JDR TECHNOLOGIES

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
14045 LAKE DRIVE NE	Telecommunications (towing)	Active		12/31/2022	2022-0001	12/31/2022

JOHN HALEY ONE ROOFER LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
7204 W 27TH ST STE 104	Commercial Roofing	Active			2022-0007	12/31/2022

PATRIOT PLUMBING HEATING & AIR

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
6899 FORTHUN RD	Mechanical	Active	MB788899	12/22/2023	2022-0064	12/31/2022
6899 FORTHUN RD	Plumbing Contractor	Active	PC790445	12/31/2023	2022-0034	12/31/2022

TRUE TIMBERS LLC

Address	Licensee Type	Status	State License	License Expire Date	Local License	License Expire Date
24215 TURNER LAKE R	Carpentry	Active			2022-0002	12/31/2022

Total Licensees4

Population: All Records
Licensee.Status = Active AND
Licensee.DateRegistered Between 6/16/2022 12:00:00 AM AND 6/30/2022 12:00:00 AM



Brainerd Fire Department Monthly Report

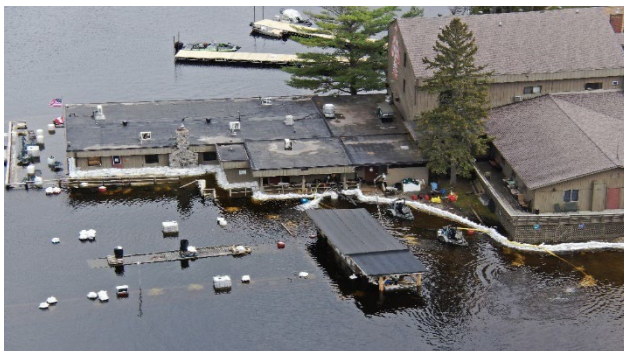
June 2022

ACTIVITIES AND PUBLIC EDUCATION

Firefighters attended several community events in June, including the Flag Day Celebration at the Veterans Memorial and escorted the Brainerd High School Girls Softball Team for the State Tournament.



Firefighters presented fire safety information at the YMCA Camp at Camp Vanasek, Touch a Truck at Prince of Peace Lutheran, and the Kids Event at St. Francis Catholic Church.



Chief Holmes represented the Crow Wing County Unmanned Aircraft Systems team and assisted Koochiching County with their flood response. The single day request was to survey the flood damage to give the County and State an idea of the magnitude of the area damaged. It was devastating to see the number of homes and businesses impacted. The local businesses were doing all they could to remain open and survive during this busy season.

With the severe weather already this summer, we want to encourage everyone to sign up for Crow Wing Alert.

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>.



Brainerd Fire Department Monthly Report

June 2022

TRAINING AND STAFF DEVELOPMENT



Firefighters had a great opportunity in June to train with Tower 20 numerous times. We had nine firefighters attend a 3-day Aerial Operations training at Camp Ripley. The class was taught by instructors from both the east and west coasts, and provided great information for us. Camp Ripley has a wonderful facility for this type of training. The nine firefighters used the information they learned to teach the rest of the department. We have been able to use the Lincoln School facility also for training.



INSPECTIONS

Construction Inspection	1
Fire Alarm	16
Fire Pump	7
Hood Suppression	30
License Inspection	13
Paint / Spray Booth Suppression	1
Safety Inspection	3
Sprinkler System	2



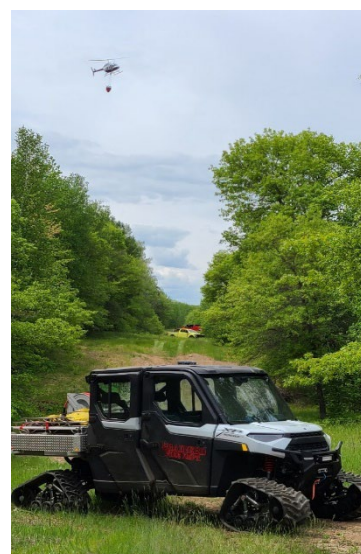
Brainerd Fire Department Monthly Report

June 2022

Brainerd Fire Department has continued in June to set records for the number of calls in a month. We responded to several structure fires, crashes, alarms, vehicle and lawnmower fires, and a number of incidents related to storms throughout the month. We also responded to several large wildland fires that spread quickly because of the heavy Cottonwood pollen on the ground.

BRAINERD FIRE COVERAGE AREA INCIDENT REPORT	
Type of NFIRS Incident (National Fire Incident Reporting System)	Coverage Area Total Incidents (Includes City of Brainerd)
Fire	12
Rescue & Emergency Medical Service	4
Hazardous Condition	13
Service Calls	4
Good Intent Call	6
Alarm Activation	26
Severe Weather	1
TOTAL	66

Type of NFIRS Incident (National Fire Incident Reporting System)	City of Brainerd Total Incidents
Fire	3
Rescue & Emergency Medical Service	1
Hazardous Condition	10
Service Calls	3
Good Intent Call	5
Alarm Activation	15
Severe Weather	1
TOTAL	38





HR DIRECTOR REPORT

In this report:

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

NeoGov

HR Staff is in the final stages of our NeoGov Onboarding module implementation. We established different portals for each type of employee group such as temporary, Paid on-call Firefighters, HRA, and now full-time employees. In the following weeks we will be finalizing different checklists and will be able to test it on our new City Engineer/Public Works Director.

Employee Policy Manual Review

Department Heads met on June 8th to discuss the revised Employee Policy Manual (EPM). During this discussion they thoroughly went over all parts of the policy. City Administrator Bergman & HR worked diligently to get all corrections made and ready for the June 27th Joint City Council/BPU Commission Special meeting. The EPM will be submitted for Council consideration on July 5th.

Special Notes

Sourcewell's Better Health Collective recently announced that it will be offering an enriched telehealth benefit for anyone covered under our Health-Partners health insurance. The benefit is "3-for-free" Virtual telehealth visits for July 1, 2022 to December 31, 2022.

The annual meeting for Sourcewell's Better Health Collective will be held on August 18th. We will receive our 2023 health insurance renewal on that date.

Sourcewell recently hosted a meet and greet for several local HR staff. Brittney and I both attended and Sourcewell staff requested input on several items including their Internship Reimbursement Program. We requested that recent graduates qualify for their program (current guidelines are the intern had to still be attending at least one class to qualify). Sourcewell has decided to change their requirements for any interns hired after July 1, 2022 to allow this! They have also increased the reimbursement rate to \$14 per hour for our 2023 interns.

Personnel

New Hires/Promotions for City/BPU/HRA:

David Nelson - Water Service Worker (6/20)
Isabella Simota - Concession Worker (6/8)

Farewell to:

Patrick Waltman - HRA Maintenance Specialist (6/21)
Eric Warner - HRA ROSS Coordinator (6/23)
Lynn Germann - BPU Water Plant Operator (6/30)
James Kozinski - HRA Caretaker: Layoff notice provided to be effective July 31, 2022 due to restructuring.

Current Job Opportunities:

Full-time:

Assistant Planner - Application deadline was June 29th.
HRA Maintenance Lead - Accepting applications through July 6th.
Police Officer - Accepting applications through July 18th.
Laborer - working with the BPU Management Team on this job posting.

Seasonal/Temporary positions:

Umpires - Adult Softball (pending background checks)
Concession Workers

There are currently five City/BPU/HRA employees with Family & Medical Leave Act (FMLA) issues. There are no employees absent at this time due to a work-related injury.

The City Engineer/Public Works Director Work Group conducted interviews on June 22, 2022. The Work Group was very pleased with the quality of the candidates and has extended a conditional job offer.

Wellness Committee

Brainerd's Wellness Committee recently had their Lunch and Learn on June 21st. The original plan was to have it at Kiwanis Park but due to the storm the night before, it was moved to City Hall. During this time each participant had a chance to earn 10 points while watching the "Finding Time for Fitness" webinar.

The Wellness Committee continues to collect non-perishable food items for the North Star Apartments Food Pantry.

Staff is working with Crow Wing County Maintenance Staff and Pikes Plumbing & Heating to install the City Hall water bottle filling station. We are hoping to have it installed in July.

The Committee was awarded a \$1,000 Crow Wing Energized grant for the conversion of a space to be a lactation/employee relaxation room. The room has been painted and only a few items are still needed to finalize this project. Special thanks to BPU Payroll/Payables Specialist Mandy Selisker for spearheading this project!

MEMO



TO: Mayor and City Council

FROM: City Administrator, Jennifer Bergman

DATE: June 30, 2022

RE: City Administrator Report

R5DC Lease for the Annex

I received a draft lease between the City of Brainerd and the Region 5 Development Commission (R5DC) from Attorney Langel this week. The lease was forwarded to Cheryal Hills, Executive Director of R5DC, for her review. The costs of construction have increased dramatically since we first began talking about this lease. The City has budgeted \$160,000 for the remodel; however, with the increase in costs R5DC is asking for an additional \$40,000. Staff is exploring options including a recommendation for ARPA funds.

Charter Commission Meeting

The Charter Commission will be meeting on July 13th to discuss Ordinance 1532, the recommended changes to the Charter from the last City Council meeting. The recommendation from the Council was to bring back these recommendations in separate ordinances. The Charter Commission would also like to discuss the results of Ordinance 1533 which purposed the elimination of the charter contributions.

ARPA Funds

Staff will be working on a list of projects for the Council to consider for America Rescue Plan Act (ARPA) funds. In February, the Council held a worksession and discussed potential uses for ARPA funds. Staff provided a list of potential projects (see attached). Staff will be vetting these projects, among others, and obtaining cost estimates. Staff would like to have a worksession with the Council on the last Monday in October to review and prioritize the recommendations.

Possible Uses for Funds – None of the projects have been verified fully for eligibility and are in no particular order, and not exhaustive:

► Core Infrastructure

- Bio Solids project
- Gully remediation in Buffalo Hills
- Water tank project
- River crossing project (new sewer pipe across river)
- Street/Sanitary/Storm improvements
- Sanitary sewer lining project

► Future Capital

- Technology
 - Camera and microphones FD training room
- Air handling system – PD HVAC
- Park improvements
- Redevelopment opportunities – i.e. Annex
- Fire station planning
- Equipment

► But for FRF

- Technology
 - Broadband to parks
 - Performance tracking software
- Redevelopment opportunities
- Grants/loans – businesses, nonprofits etc.
 - Façade grants
 - Childcare
 - Benefits for small business
- Extended leave and benefits for Staff (i.e. reimbursement for testing, COVID leave)
- Payment of SAC/WAC and assessments for Habitat to build homes
- Master planning for future development

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

July 5, 2022

7:00 PM

WebEx Teleconference Call-In Information Call Toll-

Free: 1-844-992-4726

Access Code: 2496 133 6815

1. Updated City of Brainerd Emergency Operations Plan
2. Event/Parking Lot Closure- Dangie 5K
3. Event/Alley Closure- Crossing Arts Alliance Appreciation Picnic
4. Approve Testing Services Contract with ITT for Improvement 19-02- Cuyuna Lakes State Trail West Segment
5. Approve Quotes for Improvement 22-04- 2022 Large Patch Project
6. Direction on Open Code Enforcement Cases



Brainerd City Council Agenda Request

Requested Meeting Date: July 5th, 2022

Title of Item: Updated City of Brainerd Emergency Operations Plan

☐ 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 Tim Holmes	Department: Fire
Presenter (Name & Title): Fire Chief Tim Holmes	Estimated Time Needed: 10 minutes
Summary of Issue: Over the past several months we have been working to update the city's Emergency Operations Plan (EOP) to bring it to the current standards and appropriate for the city's operations. Both the EOP and the Emergency Support Functions (ESF) have been reviewed by all Department Heads. The current plan hasn't been updated since 2008.	
Alternatives, Options, Effects on Others/Comments: The purpose of the EOP and the ESFs is to provide guidelines to effectively and efficiently save lives; establish responsibilities necessary to performing these functions; prevent, minimize and repair damage; and ensure continuity of operations so that essential services may continue to be provided to the community members and customers of Brainerd. Our plan works in conjunction with the Crow Wing County EOP. Next step will be to conduct a table top exercise using the EOP and ESFs.	
Recommended Action/Motion: Motion to adopt updated Emergency Operation Plan and Emergency Support Functions and to authorize appropriate signatures.	
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>	



CITY OF BRAINERD, MINNESOTA

Emergency Operations Plan

Basic Plan- Administration

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Emergency Support Functions

- ESF #1- Transportation & Evacuation
- ESF #2- Communications
- ESF #3- Public Works
- ESF #4- Firefighting
- ESF #5- Emergency Management
- ESF #6- Mass Care
- ESF #7- Logistics Management and Resources
- ESF #8- Public Health and Emergency Medical Services
- ESF #9- Search and Rescue
- ESF #10- Hazardous Materials
- ESF #11- Agriculture and Natural Resources
- ESF #12- Power
- ESF #13- Public Safety and Security
- ESF #14- Long Term Recovery
- ESF #15- External Affairs

1. Emergency Operations Plan Distribution List

The following is the list of the individuals who have received a copy of the plan. As the plan is updated, copies will be distributed to individuals on this list.

Name	Department	E-mail	Phone

2. Authorities/ Plan Certification

The undersigned certify that they have reviewed and approved the authorities and direction of this Emergency Operations Plan;

Mayor	Date
City Administrator	Date
Fire Chief/ Emergency Management Director	Date
Police Chief	Date
Building Official	Date
	Date

3. Record of Amendments

Revision	Date
Draft of plan	
EOP Updated	March 16 th , 2022

4. Definitions

The following definitions refer to terms mentioned within the text of this Plan or refer to terms commonly used about emergency response activities. This is considered a shortlist and additional terms utilized in this plan might not be defined.

ACTIVATION - A process by which a facility is brought up to emergency mode from a normal mode of operation. Activation is completed when the facility is useable for emergency operations.

ALERTING OF PERSONNEL - Transmission of a signal or message that places personnel on notice that a situation has developed that may require that they report for emergency duty.

DAMAGE ASSESSMENT - The appraisal or determination of the actual effects resulting from an emergency or disaster.

DIRECTION AND CONTROL - Management of emergency functions through leadership and use of authority.

DISASTER - An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, windstorm, explosion, riot, or terrorist act.

EXTREMELY HAZARDOUS SUBSTANCES (EHSs) - A list of chemicals identified by the EPA based on toxicity and listed under Title III of SARA. This list is subject to revision.

EMERGENCY OPERATIONS CENTER (EOC) - The site from which civil government officials (Tribal, municipal, county, state, and Federal) exercise direction and control during an emergency or disaster.

EVACUATION ROUTES - Designated portions of the highway network to be used during the movement of residents from a high-risk area to a host area.

HAZARD - Any situation that has the potential of causing damage to people or property.

HAZARDOUS MATERIALS - Any substance or material in any form or quantity that poses an unreasonable risk to safety and health and property when transported in commerce. (Source: U.S. Department of Transportation (DOT), 49 Code of Federal Regulations (CFR) 171.)

HAZARDOUS WASTES - A Waste and or by-product produced when using hazardous materials in a process that is no longer intended for use.

IMMEDIATELY DANGEROUS TO LIFE AND HEALTH (IDLH) - The maximum level to which a healthy worker can be exposed for 30 minutes and escape without suffering irreversible health effects or escape-impairing systems or death.

MITIGATION - Activities that are intended to eliminate or reduce the probability of a disaster occurrence. They also include those long-term activities that lessen the undesirable effects of unavoidable hazards.

NOTIFICATION AND MOBILIZATION OF PERSONNEL - Transmission of messages to emergency personnel to inform them of an emergency and to direct them to report to emergency duty assignments or stations.

PREPAREDNESS - Activities developed for emergency response capabilities. Planning, training, and exercising are among the activities conducted under this phase.

PROTECTIVE ACTIONS - Actions such as evacuation and sheltering, may be taken to avoid or minimize exposure to radiation or a hazardous substance.

RECOVERY - Recovery is both a short-term and a long-term process. Short-term operations restore vital services to the community and provide for basic needs to the public. Long-term recovery focuses on restoring the community to its normal, or an improved, state of affairs.

RE-ENTRY - Provides for temporary entry of persons into a restricted zone under controlled conditions.

RELOCATION - This is a protective action, taken in the post-emergency phase, through which persons not evacuated during the emergency phase are asked to vacate a contaminated area to avoid exposure to hazardous substances.

RETURN - The reoccupation of areas cleared for unrestricted residence or use by previously evacuated populations.

RESPONSE - The actual provision of emergency services during a crisis. The activities help to reduce casualties and damage and to speed recovery. Response activities include direction and control, warning, evacuation, and other similar operations.

SAMPLING - Collecting specimens of materials at field locations.

SHELTER FACILITIES - Building or structures which, because of their design and construction, are suitable for providing shelter against some or all of the effects of natural, technological, or war-related hazards.

SPECIAL POPULATIONS - Groups of people who need extraordinary assistance in the completion of protective actions. Examples are the elderly and or persons with physical or mental handicaps.

STANDARD OPERATING PROCEDURES (SOPs) - Sets of written instructions having the force of a directive, covering those features of

operations that lend themselves to a definite or standardized procedure without loss of effectiveness.

TRAFFIC CONTROL - All activities accomplished to facilitate the evacuation of the general public in vehicles along specific routes.

WARNING - Notifies people of a specific hazard and immediate actions to be taken.

ACRONYMS

DPW	Department of Public Works
EAL	Emergency Action Levels
EBS	Emergency Broadcast System
EMS	Emergency Medical Services
EOC	Emergency Operation Center
EOP	Emergency Operations Plan
EPA	U.S. Environmental Protection Agency
IC	Incident Command
ICS	Incident Command System
IP	Implementing Procedures
LEPC	Local Emergency Planning Committee
LOA	Letters of Agreement
MOD	Manager on Duty
MSDS	Material Safety Data Sheets
PAG	Protective Action Guide
PIO	The Public Information Officer
SERC	State Emergency Response Commission
SOG	Standard Operating Guidelines
SOP	Standard Operating Procedures

5. Introduction

The City of Brainerd is located in the West Central section of Crow Wing County. The population is approximately 14,000 over 12.85 square miles. The community is comprised of residential homes, commercial properties which include restaurants, banks, and other businesses, and open park and recreation areas. One unique feature of the community is the in-flux of summer residents to cabins as well as rental homes on the numerous lakes throughout the county. Finally, Brainerd airport is a regional airport with flights from Delta Airlines.

The community is governed by an elected Mayor and City Council. Within the administration of the city there are the following staffed departments/ positions;

City Administrator/ Administration

Community Development/ Building

Finance

City Engineering/ Public Works

Human Resources

IT/GIS

Public Utilities Commission

In addition, the City of Brainerd supplies its own Public Safety services from the Brainerd Police and Brainerd Fire Department as well as Crow Wing County Sheriff s Office. The local provider for Emergency Medical Service under Minnesota State Law is North Memorial Medical Transportation.

Emergency Management responsibilities fall under the Brainerd Fire Chief as the City of Brainerd Emergency Management Director and are closely coordinated with Crow Wing County Emergency Management as well as Minnesota Homeland Security and Emergency Management.

Under the Brainerd City Council is the Brainerd Public Utilities Commission which runs water, power, and hydro-electric dam in the community.

The City of Brainerd supports the Brainerd Lakes Regional Airport. The Regional Airport has its disaster preparedness plans which encompass the elements of this plan as well as the Crow Wing County Emergency Operations Plan.

6. Plan Fundamentals

The purpose of this plan is to provide for the carrying out of emergency functions to save lives; establish responsibilities necessary to performing these functions; prevent, minimize and repair damage; and ensure continuity of operations so that essential services may continue to be provided to the community members and customers of Brainerd.

This plan assigns roles and responsibilities to individuals that are directly responsible for emergency response and critical support services and provides a management structure for coordinating and deploying essential resources.

This plan is not designed to replace the Crow Wing County Emergency Operations Plan, but rather act as a supplement to focus more closely on the resources within the City of Brainerd and specific community needs. In some sections of the Basic Plan, language was duplicated directly from the Crow-Wing County Emergency Operations Plan. Also, only the Emergency Support Functions in which the City of Brainerd is taking a lead role in operations were modified from the county plan.

Scope

All types of hazards both natural and man-made can affect the community. A comprehensive emergency plan is needed to ensure coordination of emergency operations supporting the community's needs. This Plan guides the preparedness, response, recovery, and mitigation actions and may be activated during the following incidents;

- Tornadoes, Floods, and other natural disasters
- Blizzards
- Act of Violence
- Fires
- Hazardous material releases
- Civil unrest, Terrorism, and other national security
- Extended power outages
- Explosions
- Plane Crashes

7. Introduction and Purpose

This plan is a part of the emergency preparedness of the City of Brainerd. The community is dedicated to preparing and protecting its citizens and visitors from natural and man-made disasters. Supporting this overall goal, the community leaders have developed emergency plans, training, and full-scale exercise to enhance their response operations.

The City of Brainerd focuses on the “all-hazards” approach for emergency preparedness where all emergencies or disasters are different with unique issues, but the consequences are typically the same. This plan sets forth the operational fundamentals that will be used to manage response activities in the event of a disaster or emergency. All staff members of the City of Brainerd are expected to take personal responsibility for following the policies and procedures identified in the event of an emergency.

Reason for the plan

The reason for this plan is to manage any type of disaster that can affect the City of Brainerd. This plan is designed as a “plug and play” format that can be utilized for any type of disaster. An emergency plan is needed to ensure the protection of the public from the effects of these hazards.

Purpose of the plan

Crow Wing County has an Emergency Operations Plan that can support emergency operations with the community. However, the City of Brainerd has resources that can be utilized for emergency operations. Most importantly, the community leaders will staff key command positions for the coordination of disaster response.

This plan is designed to work as a supplement to the Crow-Wing County Emergency Operations Plan which coordinates with the Minnesota Emergency Operations Plan. The City of Brainerd EOP addresses city-specific issues as well emergency operations they will be the primary lead agency.

Emergency Operations Plan management and exercise

The Fire Chief and or designated staff will assist in the coordination of emergency operations and be the contact point for the Minnesota Division of Homeland Security and Emergency Management (HSEM) and the Federal Emergency Management Agency (FEMA).

The Emergency Operations Plan will be maintained and updated by the Fire Chief under the direction of the City Administrator, Mayor, and City Council. The City of Brainerd will comply with Minnesota Division of Homeland Security and Emergency Management, Federal Emergency Management Agency (FEMA), and Public Law 99-499 (SARA) training and exercise requirements, as published. Information about both scheduled and previously conducted training and exercises can be obtained by contacting the City of Brainerd City Administrator.

At least once annually the City of Brainerd will conduct a tabletop or full-scale exercise to test the planning and operational components of the Emergency Operations Plan. This document includes the 4-year exercise schedule for Minnesota communities. Exercises will be coordinated with other emergency response agencies to fulfill the requirements of the participating agencies.

Legal Basis and Reference

Public Law (PL)

- Federal Civil Defense Act, as amended (50 USC 2251 et seq.), 1950
- Disaster Relief Act, PL 93-288, as amended (42 USC 5121 et seq.), 1974
- Superfund Amendment and Reauthorization Act (also known as the Emergency Planning and Community Right to Know Act), PL 99-499, 1986
- Robert T. Stafford Disaster Relief and Emergency Assistance Act, PL 100-707, as amended (42 USC 5131 et seq.), 1988
- Disaster Mitigation Act, PL 106-390, 2000
- United States Code (USC), Title 42, Public Health and Welfare

- Chapter 68, Disaster Relief
- Chapter 116, Emergency Planning and Community Right-To-Know (EPCRA)
- CFR Part 139 F.A.A.- AC 150/5200-31C - Airport Emergency Plan

Minnesota Statutes

- Chapter 12, Emergency Management
- Chapter 88.04, Firebreaks, Prevention of Fires
- Chapter 103E.705, Subd. 7, Drainage Repair and Construction After a Disaster
- Chapter 103F.155, Flood Protection Plans
- Chapter 115E.06, Good Samaritan
- Chapter 138.17, Subd. 8, Emergency Records Preservation
- Chapter 273.123, Reassessment of Homestead Property Damaged by a Disaster
- Chapter 299A.48-52, Minnesota Hazardous Materials Incident Response Act
- Chapter 299F.091-099, Community Emergency Response Hazardous Substance Protection Act
- Chapter 299J, Office of Pipeline Safety
- Chapter 299K, Hazardous Chemical Emergency Planning and Response.

8. Warning and Notification

To provide an overview of the responsibilities and the procedures whereby the notification of city officials and the warning of the general public.

Outdoor Warning Sirens

There are outdoor warning sirens located throughout Crow Wing County for the population of the City of Brainerd. The warning system is designed for outdoor warnings only; individuals are encouraged to sign up for Crow Wing County ALERT which is an emergency alerting system that notifies you directly of emergency information. Additionally, it is assumed that the public will be utilizing other means of warning notification through different technologies such as phones to stay informed.

As the cities warning point, the Crow Wing County Communications Center is responsible for providing warnings and notifications according to established procedures. Warnings and notifications will be accomplished by issuing appropriate two-way radio broadcasts to appropriate emergency response agencies and activation of the Emergency Warning Sequence Call List or activation of the Emergency Operations Center (EOC).

Notification List

A notification call list may be utilized to notify staff if this plan is enacted. The call list will remain as an attachment to this plan as it may be frequently updated.

News Service

In some situations, the local media may be utilized to disseminate information to the citizens and the general public within the City of Brainerd. Press releases will be issued for immediate release.

9. Activation

Activation is achieved when any ESF agency formally notifies the Mayor and City Administrator or designee of the jurisdiction; the City of Brainerd Emergency Manager Director, as well as any affected municipal ESF agencies. The Mayor City Administrator and Emergency Management Director will then make the final determination of activation. At any level of activation, ESF #5 Emergency Management is also activated to help maintain situational awareness of the threat or incident.

The Levels of emergencies language contained within this plan are intended to be in coordination with the Crow Wing County Emergency Operations Plan for the overall goal of consistency in operations.

Declaration of an “Emergency” and or “Disaster”

Under Minnesota State Statute 12.29 which states for following;

12.29 DECLARATION OF LOCAL EMERGENCY.

*Subdivision 1. **Authority to declare an emergency.** A local emergency may be declared only by the mayor of a municipality or the chair of a county board of commissioners or their legal successors. It may not be continued for a period over three days except by or with the consent of the governing body of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local emergency must be given prompt and general publicity and filed promptly by the chief of the local record-keeping agency of the political subdivision.*

*Subd. 2. **Effect of declaration of emergency.** A declaration of a local emergency invokes necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans and may authorize aid and assistance under those plans.*

*Subd. 3. **Inter-jurisdictional agencies.** No inter-jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services by the agreement under which it functions.*

Emergency & Disaster Classification

Emergency

Emergencies are usually small-scale, localized incidents that are resolved quickly using local resources. However, small-scale emergencies can escalate into disasters when there has been inadequate planning and wasteful use of resources.

Disaster

Disasters are typically large-scale and cross geographic, political, and academic boundaries. Disasters require a level of response and recovery greater than local communities can provide

Levels of an “Emergency”- Incident Complexities

We recognize that not all situations rise to a level that requires the use of all aspects of this plan and that "emergency" can be a broadly defined term. Any emergency will require scrutiny. We have established the following guidelines for determining the level of emergency.

In parallel with the FEMA Incident Complexity Guide, there are 5 levels of incidents. Level 1 identified within this plan is managed between the State and County. The City of Brainerd will utilize Incident Complexities 1-4.

LEVEL 5: No Activation of ESFs Anticipated (Routine day-to-day operations)

During normal activities, emergency services respond to calls for assistance and all agencies provide normal levels of service. Other than routine planning, no activity involving Emergency Management is needed. Informational bulletins and alerts might be sent out at this level.

When an incident occurs or has the potential to occur that is outside of the normal activity for a particular unit of government, actions might include alert, notification, and situation reporting in coordination with the City of Brainerd senior leadership.

LEVEL 4: Significant Incident or Potential Emergency - Partial Plan Activation Anticipated (Emergency Incidents/Potential Incidents requiring close monitoring of the situation by elements of one or more ESF).

Partial utilization of the community EOP is anticipated. Examples include community special events; severe weather watches and warnings; potential or actual changes in the Homeland Security Threat Level without confirmed threat to the City or County; business continuity/continuity of government threats; requests for assistance in other Minnesota communities when there is no direct risk to the City of Brainerd; the confirmed act of terrorism occurring in the United States (without known threat to the community); major non-terrorism emergency or disaster occurring in the United States without probable risk to Crow Wing County. **NOTE:** Situations limited to continuity of operations problems (without threat to life) are usually at this level.

LEVEL 3: Local Emergency or Significant Continuity of Government Situation (Emergency or potential incident requiring input from multiple personnel in leadership roles to effectively manage the demands of the situation. May require assets from other the county, state, or federal agencies)

Partial or full utilization of the community EOP is anticipated. Examples include an emergency limited to a portion of the community, requiring a large number of community resources in operations. An individual municipality(s) may consider a formal declaration of local emergency by the Brainerd Mayor. Typically includes situations in which there is a need for Senior Management and/or other subject matter experts to work together to coordinate City-activity and affects the Continuity of Operations of Government;

LEVEL 2: Major Emergency/Disaster and/or Countywide Impact (A disaster involving a majority of the community involving the need for multiple ESFs; or any situation that will likely exhaust the ability of the city to provide services or that will result in the need for coordination of multiple agencies and activities)

In most cases, a formal declaration of a local state of emergency will be requested from the Brainerd Mayor. The main criteria are that all

available local resources have been utilized to the best of our ability, and there will be a need for outside assistance.

Examples include significant county large-scale civil unrest; results of a tornado; major community emergencies; events that might result in the need to evacuate large areas of one or more communities; events that otherwise threaten to compromise the continuity of governmental functions.

Normal governmental operations may be suspended. The effects of this emergency are wide-ranging and complex. A timely resolution of disaster conditions requires countywide cooperation and extensive coordination with external agencies and jurisdictions.

LEVEL 1: Major Emergency/Disaster and/or statewide Impact.
This is managed by the State of Minnesota Department of Homeland Security and Emergency Management in partnership with the affected counties.

At Level 1 the State of Minnesota has fully mobilized all of their emergency response assets and are being supported by FEMA as well as other governmental and non-governmental organizations.

The City and County will be fully engaged in emergency operations with declarations of emergencies and will need to assess continuity of operations for City services for a long-term response.

10. Incident Management

It is the goal of the City of Brainerd to coordinate disaster operations utilizing the Unified Command format identified within the National Incident Management System (NIMS). The City of Brainerd recognizes the implementation of the National Incident Management System into its emergency operations.

The City of Brainerd requires that staff who have primary or secondary responsibilities within the EOP/ESFs should complete the following levels of the National Incident Management System by local, State, and Federal laws;

- IS-700
- IS-100
- IS-200

This training can be completed online or in a classroom setting as a staff member's schedule allows.

In addition, for those staff members who have the responsibility for staffing the Emergency Operations Center (EOC) they must take the following additional training levels;

- IS-300
- IS-400

The City of Brainerd requires that all of their contractors who have a responsibility for emergency response operations within the community are trained to the appropriate levels of the National Incident Management System as described above.

In coordination with the Crow Wing County Emergency Operations Plan, the City's Emergency Manager or designee will work closely with Crow Wing County Emergency Management.

In addition, an Incident Manager for the City of Brainerd will coordinate the cities logistical support needs with Crow Wing County.

On-scene Incident Commander and Incident Manager will be responsible for the coordination of all tactical activities. The Incident Command position will be staffed immediately upon notification of an emergency and will remain staffed until the incident response is terminated.

Additional Command and General staff positions will be utilized for the support of the response. These positions may exist on-scene or at the city EOC. The addition of these staff positions is at the discretion of the Municipal Incident Manager, Municipal Emergency Manager, and or the Incident Commander.

11. Direction and Control

This section aims to guide the primary, secondary, and supportive agencies during disaster response.

The direction and control of emergency operations will be the City of Brainerd with support from Crow Wing Public Safety/ Emergency Management and Minnesota resources. The Minnesota resources include the Type 3 Incident Management Team as well as the Minnesota State Fire Chiefs Association FAST Chief program as the City of Brainerd is limited in personnel for disaster management issues. The following is a matrix identifying the Emergency Support Functions and the department responsible for their implementation.

	Emergency Support Functions														
Department	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Mayor															P
City Council															P
City Administrator					S		P							P	S
Airport Manager				S					S						
Public Utilities												P			
Brainerd Police Chief									P	S			P		S
Brainerd Fire Chief				P	P		S		P	P			S	S	
Community Development															
I.T.		P													
Engineering	P		S								S			S	
Public Works	P		P								S				
Transit	S														
Crow Wing Emergency Management		P			S	P	S		S	S	S		S	P/S	
Crow Wing Public Health						S		P			P				
North Ambulance						S		S							

11.1. Responsibility Matrix

P= Primary S= Supportive

12. Emergency Operations Center

The direction and control of government operations from a central, protected facility with adequate communications and key personnel is essential to the conduct of emergency operations. This facility will be known as the Brainerd Emergency Operating Center (EOC) located in the training room at Brainerd Fire Station #1 23 Laurel St, Brainerd, MN 56401. An alternate location for the EOC is Brainerd Fire Station #2 1301 Mill Ave, Brainerd.

1. Criteria for EOC Activation

The degree of Brainerd EOC activation will be determined by the severity of the emergency.

- The EOC may be partially activated due to a potential threat to life or property from severe weather, i.e., tornado, flooding, blizzard, civil disturbance, biological, or a hazardous materials incident/accident that is an uncontrolled release of a reportable product.
- The EOC will be fully activated in response to an emergency resulting in a threat to life and property. This would include but is not limited to, tornado touchdown or flooding causing damage to the public and private sector and requiring a coordinated response effort, or a biological-hazardous materials incident/accident involving the response of several agencies, including federal and state, as well as surrounding counties and municipalities.

2. Responsibility for EOC Activation

In the event of a major disaster, City staff would be expected to automatically report to the EOC (fire station); however, the City of Brainerd Emergency Management Director is responsible for ensuring that the EOC is activated according to the criteria discussed above.

3. Staffing of the EOC

The staffing list for the Brainerd EOC is on file with the Brainerd Emergency Management Director. Each department/agency represented in the EOC is responsible for ensuring that its

representative is familiar with the duties he/she is expected to perform at the EOC. (See Call List section).

4. EOC Equipment/Supplies

The Brainerd Emergency Management Director is responsible for ensuring that the EOC is operational. The necessary maps, displays, tables, and chairs, communications equipment, message logs, etc., are on hand and available for use in the EOC.

5. Communications Capability

The Emergency Management Director has been given the responsibility of ensuring all communication systems (primary and alternate) are operational and communication links between response personnel and EOC operations are identified.

Communication links are established between the City and the following organizations:

- Brainerd departmental units by direct connect cell phone.
- Crow Wing County Sheriff Dispatch by radio
- Countywide or statewide channel
- All others by land line only

6. Support Documentation

The following support materials are kept on file in the Emergency Management Director's Office:

- EOC Standard Operating Procedures
- Resource Manual for lists of equipment and supplies

City of Brainerd, Minnesota

EMERGENCY SUPPORT FUNCTIONS



B R A I N E R D
M I N N E S O T A
A City for All Seasons

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EMERGENCY SUPPORT FUNCTION #1

TRANSPORTATION & EVACUATION

.....

PRIMARY

The primary responsibility for transportation issues affecting the City of Brainerd is under the direction of the City Engineer/ Public Works Director for City owned streets.

LOCAL SUPPORT

CROW WING COUNTY PUBLIC WORKS

CROW WING COUNTY EMERGENCY MANAGEMENT

STATE RESOURCE

MINNESOTA DEPARTMENT OF TRANSPORTATION

MINNESOTA DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT

MINNESOTA NATIONAL GUARD

PURPOSE

Emergency Support Function (ESF) #1 Transportation is to provide coordination and support as it relates to transportation issues affecting the community. This includes maintaining all City owned transportation routes and systems. In addition, coordinating with the

local and state agencies to ensure that their systems are properly restored in a timely manner during a disaster.

Scope

Within the operation of ESF #1 the responsibilities include;
Monitor and provide timely situational updates on the status of the affected transportation system to the EOC;

1. Provide debris clearance of all city-owned roads within the community.
2. At certain points during a disaster, the city may be asked to assist in clearing a county road.
3. Provide transportation routes for the mass evacuation from the community.
4. Identify alternative strategies to temporarily restore the transportation systems within the community.
5. Staff the EOC and assist in drafting the Incident Action Plans for the Operational periods.
6. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #1 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. It focuses on outcomes of events and incidents rather than causes. There are several situations in which the transportation routes and systems can be affected within the community. When a transportation route or system is affected, then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations.

One key consideration within ESF #1 is evacuation. This is for the mass evacuation of the community or the receiving of a mass population. In either case, a few items which will need to be addressed at the time of the incident include;

- Evacuation routes out of the community. Roads may be turned into one-way streets in the direction of the city officials in the EOC.
- Special needs population issues will need to be addressed for bussing and reception point.
- The securing of the community by Law Enforcement so that no one without proper credentials may re-enter the community.
- Any medical needs of the evacuee will be handled under ESF #8- Public Health and Medical Services.
- The consideration for pets and other animals will be identified for the evacuation.

During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the Public Works Department. Notification and activation can come through City Hall, Crow Wing County Dispatch, or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

1. Public Works- Will assume the Public Works Command position and if other agencies are involved will operate in a Unified Command System from a single Command Post. Complete an additional size up of the situation.
2. Activate additional staff.
3. Activate mutual aid resources.
4. Activate any contractors already pre-identified to provide assistance.
5. Delegate Incident Command Positions to divide up the scope of operations.
6. Support staff with additional resource requests.
7. Maintain Situational Awareness and provide timely information to the Command and General Staff.
8. Update the EOC staff with timely progress reports.
9. Provide for the care and welfare of operating staff.
10. Participate in meetings and assist in drafting the Incident Action Plans.

DEBRIS CLEARANCE

After a severe storm has affected the community the Public Works Department will complete a damage/clean-up assessment. From that point, an Incident Action Plan will be developed. The primary routes within the community will be cleared first. Emergency vehicle access routes may need to be considered and or established.

For the debris, a location will be established per the Brainerd Public Works current SOP/SOG so that debris can be properly separated and

disposed of. All storm debris will be managed in conjunction with the Crow Wing County Environmental guidance.

The City Council will be responsible for deciding if a private owner's property is going to utilize city resources for their cleanup operations. If the debris affects emergency response operations, then the City Public Works department is authorized to assist in the removal or relocation of the debris.

REFERENCES

City and Department Standard Operating Guidelines

City of Brainerd Emergency Operations Plan

Crow Wing County Emergency Operations Plan

Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #2

COMMUNICATIONS

PRIMARY

The primary responsibility for emergency communication issues affecting the Brainerd is under the direction of the City of Brainerd IT/ GIS as well as Crow Wing County Communications. All non-emergency communication networks will be under the direction of the City of Brainerd IT/ GIS and the vendor supplying the service.

LOCAL SUPPORT

CROW WING COUNTY COMMUNICATIONS
CROW WING COUNTY EMERGENCY MANAGEMENT

STATE RESOURCE

MINNESOTA DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT
MINNESOTA NATIONAL GUARD

PURPOSE

Emergency Support Function (ESF) #2 Communications is to provide coordination and support related to communication affecting the community. This includes maintaining all City emergency and non-emergency communication systems. In addition, coordinating with the local communication vendors to ensure that their systems are properly restored in a timely manner promptly during a disaster.

SCOPE

Within the operation of ESF #2 the responsibilities include;

- Monitor and provide timely situational updates on the status of the affected communication system to the EOC.
- Identify alternative strategies to temporarily restore the communication systems within the community.
- Staff the EOC and assist in drafting the Incident Action Plans for the Operational periods.
- Coordinate with local service providers to ensure timely restoration.

SITUATION AND ASSUMPTION

The Brainerd Emergency Operations Plan is designed as an “all hazards-hazards” type of plan. It focuses on outcomes of events and incidents rather than causes. There are several situations in which the communication systems can be affected within the community.

Critical communication systems within the City of Brainerd are;

- 800 MHz Radio
- Land Line Phones
- Cell Phones
- Internet Service
- Cable TV Service

When a critical communications system is affected, then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the City Administrator. Notification and activation can come through City Hall, Crow Wing County Dispatch, or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

1. City Administrator- Will assume a Command position and if other agencies are involved will operate in a Unified Command System from a single Command Post.
2. Complete an additional size up of the situation.
3. Activate additional staff
4. Notify the affected communication vendor of the situation and request immediate service.
5. Activate mutual aid resources
6. Activate any contractors already pre-identified to provide assistance.
7. Delegate Incident Command Positions to divide up the scope of operations.
8. Support staff with additional resource requests.
9. Maintain Situational Awareness and provide timely information to the Command and General Staff.
10. Update the EOC staff with timely progress reports.
11. Provide for the care and welfare of operating staff.
12. Participate in meetings and assist in drafting the Incident Action Plans.

REFERENCES

City and Department Standard Operating Guidelines
Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #3

PUBLIC WORKS

PRIMARY

The primary responsibility for public works operations issues affecting the Brainerd is under the direction of the City of Brainerd Public Works Department.

LOCAL SUPPORT

CROW WING COUNTY PUBLIC WORKS

STATE RESOURCE

MINNESOTA DEPARTMENT OF TRANSPORTATION

MINNESOTA DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT

MINNESOTA NATIONAL GUARD

PURPOSE

Emergency Support Function (ESF) #3 is to guide for guide the organization of public works and engineering resources to respond to and recover from emergency events causing damage to public buildings, roads, bridges, and other facilities that will have to be repaired, reinforced, or demolished to ensure safety and allow for emergency response activities. Specifically, it addresses:

- Infrastructure protection and emergency restoration
- Safety inspections and other assistance for first responders

- Engineering and construction services
- Liaison with State and Federal resources
- Debris management operations

ESF #3 describes how the extent and the scope of damage to and within Brainerd are determined. Damage can include economic loss, injury to persons or animals, and fatalities in addition to the physical damage to property and buildings.

The ESF also describes how the debris that results from events, incidents, emergencies, and disasters is removed and disposed of efficiently and in compliance with applicable state or federal laws and regulations.

SCOPE

This ESF is designed to provide a flexible organizational structure capable of meeting the varied requirements of many emergency scenarios with the potential to require activation of the Brainerd Emergency Operations Center (EOC) and implementation of the Brainerd Emergency Operations Plan.

ESF #3 is a functional annex to the EOP and the extent possible; information contained in other sections of the EOP will not be repeated in this document.

This ESF was drafted from the Crow Wing County Emergency Operations Plan and was designed to enhance the emergency operations within the City of Brainerd with the utilization of local resources rather than having Crow Wing County being the primary command and coordination agency.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. It focuses on the outcomes of events and incidents rather than a cause. There are several situations in which the city Public Works Department assists in response operations. When public works operations are enacted, then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the Public Works Department. Notification and activation can come through City Hall, Crow Wing County Dispatch, or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

1. Public Works Director- Will assume the Public Works Command position and if other agencies are involved will operate in a Unified Command System from a single Command Post.
Complete an additional size up of the situation.
2. Activate additional staff.
3. Activate mutual aid resources.
4. Activate any contractors already pre-identified to provide assistance.

5. Delegate Incident Command Positions to divide up the scope of operations.
6. Support staff with additional resource requests.
7. Open a temporary debris collection point.
8. Maintain Situational Awareness and provide timely information to the Command and General Staff.
9. Update the EOC staff with timely progress reports.
10. Provide for the care and welfare of operating staff.
11. Participate in meetings and assist in drafting the Incident Action Plans.

DEBRIS CLEARANCE

After a severe storm has affected the community the Public Works Department will complete a damage/clean-up assessment. From that point, an Incident Action Plan will be developed. The primary routes within the community will be cleared first. Emergency vehicle access routes may need to be considered and or established.

For the debris, a location will be established so that debris can be properly separated and disposed of. All storm debris will be managed in-conjunction conjunction in conjunction with the Crow Wing County Environmental guidance.

The City Council will be responsible for making the decision if a private owner's property is going to utilize city resources for their cleanup operations. If the debris affects emergency response operations, then the City Public Works department is authorized to assist in the removal or relocation of the debris.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #4

FIREFIGHTING

PRIMARY

The primary responsibility for firefighting issues affecting the Brainerd is under the direction of the City of Brainerd Fire Department.

LOCAL SUPPORT

Crow Wing County Fire Departments
Cuyuna range mutual aid agencies
Brainerd Lakes Regional Airport Fire Rescue

STATE RESOURCE

Minnesota State Fire Marshal's Office
Minnesota Department of Natural Resources
Minnesota Department of Homeland Security and Emergency Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #4 Firefighting is to provide coordination and support related to fire operations affecting the community. In addition, this is also to coordinate operations with other mutual aid fire resources.

SCOPE

Within the operation of ESF #4 the responsibilities include;

- Monitor and provide timely situational updates on the status of affected fire operational issues to the EOC.
- Identify alternative strategies to temporarily restore the fire response coverage within the community.
- Staff the EOC and assist in drafting the Incident Action Plans for the Operational periods.
- Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #4 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. It focuses on outcomes of events and incidents rather than causes. There are several situations in which the fire response operations can be affected within the community. Critical fire response issues within the City of Brainerd are;

- Structure fires
- Grass fires
- Personal injury accidents
- Hazardous materials releases
- Aircraft Emergencies
- Technical land and water rescues

For large-scale incidents involving fire operations, an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed.

The Fire Department will utilize its Standard operating Procedures for emergency operations. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the Brainerd Fire Department. Notification and activation can come through City Hall, Crow Wing County Dispatch, or a staff member directly.

The City of Brainerd has two fire stations covering the jurisdiction which is under the direction of the Brainerd Fire Chief and the Brainerd Fire Department SOP's and SOG's.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - a. Incident Command Post (ICP)
 - b. Fire Department
 - c. Emergency Operations Center (EOC)

2. Establish an Operations Section Chief or Fire Branch Director position and begin to identify affected areas and operational needs.
3. Establish a Public Information Officer position to maintain information regarding the incident to all parties involved in the incident.
4. Work closely with the city EOC to identify exactly what areas are affected and prioritization of operations.
5. Identify the nature of the situation and what communication systems might be affected.
6. Determine the risk to the community and determine if an evacuation or shelter- in place is needed.
7. Maintain Situational Awareness and provide timely information to the Command and General Staff.
8. Provide timely information to the Administrative and Elected Officials.
9. Identify Operational Periods to ensure continuity of operations to resolve the situation.
10. Identify the future resource needs for the management of operations.
11. Once the communication system has been restored, communicate the information to all affected parties.
12. Demobilize the Incident Management Team.
13. Complete an After Action Review and establish a Corrective Action Plan.
14. Maintain documentation on the incident within the department.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #5

EMERGENCY MANAGEMENT

PRIMARY

The primary responsibility for emergency management issues affecting the Brainerd is under the direction of the City of Brainerd Fire Department.

LOCAL SUPPORT

Crow Wing County Emergency Management

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency Management

PURPOSE

Emergency Support Function (ESF) #5 Emergency Management is to provide coordination and support related to emergency operations affecting the community. The Emergency Management coordinator is an Incident Manager rather than an Incident Commander. In addition, this is also to coordinate operations with other supporting agencies.

SCOPE

Within the operation of ESF #5 the responsibilities include;

- Manage the operations within the Emergency Operations Center (EOC)
- Facilitate the drafting of an Incident Action Plan by staff within the EOC.
- Keep the Elected Officials up to date on the current situation and issues affecting the community.
- Monitor and provide timely situational updates on the status of the incident to the EOC.
- Identify alternative strategies to temporarily restore the emergency operations response coverage within the community.
- Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #5 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. It focuses on the outcomes of events and incidents rather than the cause. Emergency Management is not focused on one type of hazard or operation, rather, they are a facilitator of a process to coordinate approval of an Incident Action Plan (IAP). During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the City Administrator. Notification and activation can come through City Hall, Crow Wing County Dispatch, or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - a. Incident Command Post (ICP)
 - b. Emergency Operations Center (EOC)
 - c. Department Operating Center (DOC)
2. First arriving staff at the EOC will start all operational equipment.
3. The designated City of Brainerd Incident Manager in the EOC will draft the initial ICS 202- Incident Objectives and assign staffing roles on the ICS 207- Incident Organization Chart found in the Planning Section office within the EOC.
4. Crow Wing County Emergency Management staff will assume the pre-designated roles unless otherwise identified by the Incident Manager.

5. City of Brainerd Emergency Manager (or designee)- Incident Manager
 - a. Operations Section Chief
 - b. Planning Section Chief
 - i. Situation Unit Leader
 - c. Logistics Section Chief
 - d. Communication Unit Leader
 - e. Command Post Operations
 - f. Field Observers
5. Establish a Situational Unit Leader position and begin to identify affected areas and operational needs. Begin to complete an ICS 209- Incident Status summary for each jurisdiction affected. These sheets are found in the EOC and available online at:
<http://www.fema.gov/emergency/nims/JobAids.shtm>
6. Contact the City of Brainerd Mayor and provide a situation update with known information then.
7. Contact the community Public Information Officer position to manage information regarding the incident to all parties involved in the incident.
8. Work closely with the local Incident Commander to identify exactly what areas are affected and prioritization of operations that will affect county resources.
9. Identify the nature of the situation what communication systems might be affected and the duration of the outage. Emergency Management staff will begin drafting an ICS 205- Communications Plan for Emergency Management operations.
10. Monitor requests for assistance that are being processed through the Crow Wing County Communication Center.
11. Determine the risk to the community and determine if an evacuation or shelter- in place is needed.

12. Maintain Situational Awareness and provide timely information to the Command and General Staff.
13. Provide timely information to the Administrative and Elected Officials.
14. Identify Operational Periods and a plan to ensure continuity of operations to resolve the situation.
15. Produce Incident Action Plans.
16. Identify the future resource needs for the management of operations.
17. Manage the Planning Process throughout the operations to ensure proper planning and documentation through Incident Action Plans.
18. Ensure all documentation is being completed throughout the incident and work closely with the Finance Section Chief to track incident costs.
19. Demobilize the Incident Management Team.
20. Complete an After Action Review and establish a Corrective Action Plan.
21. Maintain documentation on the incident within the department and copy Crow Wing County Emergency Management if needed.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #6

MASS CARE

PRIMARY

The primary responsibility for Mass Care, Emergency Assistance, Housing, and Human Services issues affecting the City of Brainerd will be under the direction of Crow Wing County Emergency Management and the Crow Wing County Emergency Operations Plan.

LOCAL SUPPORT

Crow Wing County Community Services
American Red Cross
Salvation Army

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency
Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #6 Mass Care & Emergency Assistance is to provide emergency coordination and support as it relates to the mass care, feeding, and housing to the community. In addition, this is also to coordinate operations with other supporting agencies.

Scope

Within the operation of ESF #6 the responsibilities include;

- Monitor and provide timely situational updates on the status of the incident to the EOC.
- Support the citizens of the community with temporary food, water, and shelter.
- Identify alternative strategies to temporarily restore the housing within the community.
- Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #6 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Any hazard may affect a citizen’s ability to provide food water and shelter. When residents are displaced due to a disaster, then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is Crow Wing County Emergency Management. Notification and activation can come through Crow Wing County Dispatch or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

The City of Brainerd staff and Elected Officials will be utilized in the community notification process and ongoing support process. The involvement of the community leaders will be essential during operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

1. Crow Wing County Emergency Management- Will assume a Command Position and if other agencies are involved will operate in a Unified Command System from a single Command Post.
2. Complete an additional size up of the situation.
3. Activate additional staff
4. Activate mutual aid resources
5. Activate any contractors already pre-identified to assist.
6. Delegate Incident Command Positions to divide up the scope of operations.
7. Support staff with additional resource requests.
8. Maintain Situational Awareness and provide timely information to the Command and General Staff.
9. Update the EOC staff with timely progress reports.
10. Provide for the care and welfare of operating staff.
11. Participate in meetings and assist in drafting the Incident Action Plans.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #7

LOGISTICS MANAGEMENT

PRIMARY

The primary responsibility for logistical support to the staff working the emergency affecting the City of Brainerd will be under the direction of the City Administrator.

LOCAL SUPPORT

Crow Wing County Emergency Management

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #7 Logistics Management and Resources is to provide emergency coordination and support as it relates to supporting those working the emergency. Specifically, office space, equipment, and supplies.

SCOPE

Within the operation of ESF #7 the responsibilities include;

1. Monitor and provide timely situational updates on the status of the incident to the EOC.

2. Support the Incident Command System with productivity resources.
3. Identify alternative strategies to temporarily create supply chains for equipment.
4. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #7 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Any hazard may affect a citizen’s ability to provide food, water, and shelter. This ESF is to support the Incident Management Team working on the disaster. This team will need items such as office space (i.e., EOC), office equipment, and supplies to complete the Incident Action Plan. This ESF may not be needed entirely throughout the incident but will need to be considered from time to time.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the City Administrator. Notification and activation can come through City Hall, Crow Wing County Dispatch, or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

The City Administrator will set up a logistics supply chain to support all aspects of emergency operations. Some of the logistical needs include;

1. Food and water for responders and volunteers
2. Portable bathrooms in the area of emergency operations.
3. Emergency Operations Center operational support.
4. City Hall operational support.
5. Contract and Equipment acquisition.
6. Other logistical needs were identified at the time of the emergency.

CONCEPT OF OPERATIONS

RESOURCES

Crow Wing County has several resources for a given disaster. The resources are on file with the Emergency Communications Center for immediately deployment if necessary. In addition, the Minnesota Duty Officer also has several state resources available. The categories located within Crow Wing County Dispatch and available through the State include;

1. Hazardous Materials Teams with WMD Capabilities
2. Bomb squads
3. Food resources
4. Volunteer groups
5. Generators
6. Portable pumps
7. Portable water
8. Sandbagging equipment

Mutual Aid Agreements/ Memorandums of Understanding
several mutual aid agreements are in place for emergency operations. These agreements are throughout this plan as well as on file with the City of Brainerd Emergency Manager. In addition, local agencies may have their mutual aid agreements with other agencies. This plan is designed to work in cooperation with those pre-existing agreements.

Additional agreements may be needed to secure resources. These agreements will be worked out through the Incident Commander, Crow Wing County Emergency Manager, Logistic Section Chief, or the Finance Section Chief during emergency operations.

Any resource that is acquired during emergency operations regardless of whether it is a donation or billable expense will need to have a Memorandum of Understanding (MOU) completed before deployment of use of the resource.

VOLUNTEERS

During the time of the disaster, volunteers are critical to the rapid response and recovery. All volunteers will be registered and coordinated through Crow Wing County and the Human Resources department. Volunteers will need to be credentialed and sign a county volunteer form.

Unrequested volunteers will be sent to a staging area where they will be assessed for their capabilities and if Operations can utilize the resource, then they will be processed through the system. If they cannot be utilized, they will be immediately returned to their home base.

DONATIONS

It is a high probability based on past disasters that the local public and business will provide donations to the affected community within the County. This process will be coordinated through The City of Brainerd Emergency Management Director.

All donations will be entered into a log, categorized, and sorted for a quick turnaround to the affected population. The city reserves the right to reject any donation for any given reason.

All individuals and groups offering donations shall expect to receive no reimbursement for their donation. If an individual or group is seeking reimbursement for a donation, then they shall contact the City of Brainerd Emergency Management Director before issuing the donation.

Donations may be collected at the Brainerd Public Works facility, or the City Hall depending on the given situation. A drop-off coordination site will be established at all identified donation locations. Alternate locations may be identified depending on the need.

Donations involving monies will be coordinated through the City of Brainerd Finance Department. An emergency donations fund will be established either through the County, Municipal, or a local financial institution.

If, at the end of the incident extra donated goods, are left at the donation collection point then the individual or group who made the donation donated will be contacted for its return. If the donated good(s) are not returned, they will be donated to a charitable organization.

ACTIONS: INITIAL

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - a. Incident Command Post (ICP)
 - b. Emergency Operations Center (EOC)
 - c. Department Operating Center (DOC)
2. Establish a Logistic Section Chief position and begin to identify affected areas and operational needs. Identify necessary staff under the Logistics Section which needs to be staffed.
3. Gather information about the situation from the EOC, if one is established otherwise the Incident Commander
4. If additional help is needed in the logistics section, then begin to staff positions accordingly.
5. Work closely with the Operations Section Chief to identify exactly what areas are affected and prioritization of resources.
6. Evaluate what resources are needed for the Incident Command Post, Emergency Operations Center, and or the Department Operating Center.
7. Maintain Situational Awareness and provide timely information to the Command and General Staff.
8. Provide timely information to the Incident Commander.
9. Identify Operational Periods to ensure continuity of operations to resolve the situation.
10. Identify the future resource needs for the management of operations.
11. Participate in the Planning Process throughout the operations to ensure proper planning and documentation through Incident Action Plans.

12. Ensure all documentation is being completed throughout the incident and work closely with the Finance Section Chief to track incident costs.
13. Evaluate the need for ongoing operations and develop a Demobilization Plan.
14. Demobilize the Incident Management Team.
15. Complete an After Action Review and establish a Corrective Action Plan.
16. Maintain documentation on the incident within the city and copy Crow Wing County Emergency Management if needed.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #8

PUBLIC HEALTH & MEDICAL

PRIMARY

The primary responsibility for Public Health issues affecting the City of Brainerd will be under the direction of Crow Wing County Public Health.

The Primary responsibility for Medical Services within the City of Brainerd will be under North Memorial Ambulance.

LOCAL SUPPORT

Crow Wing County Public Health
North Memorial Ambulance
Crow Wing County Emergency Management
Cuyuna Range Medical Center Ambulance
American Red Cross
Salvation Army

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency
Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #8 Public Health and Medical Services is to provide emergency coordination and support as it relates to Public Health issues and medical care to the community. In addition, this is also to coordinate operations with other supporting agencies.

SCOPE

Within the operation of ESF #8 the responsibilities include;

1. Monitor and provide timely situational updates on the status of the incident to the EOC.
2. Support the citizens of the community with Public Health communications, immunizations, and medical care.
3. Identify alternative strategies to temporarily deal with public health issues as well as provide medical care coverage.
4. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #8 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Public Health-related emergencies include;

1. Disease Outbreaks (has happened within the community)
2. Anticipated disease outbreaks (has happened elsewhere)
3. Prevention of disease outbreaks
4. Public health communication
5. Emergency Medical Services

When this ESF is enacted then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is Crow Wing County Emergency Management. Notification and activation can come through Crow Wing County Dispatch or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

The City of Brainerd staff and Elected Officials will be a part of the strategic decision-making process as it relates to emergency operations. The specific implementation tactics will be under the direction of the Crow Wing County Public Health Director.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

1. Crow Wing County Public Health- Will assume a Command Position and if other agencies are involved will operate in a Unified Command System from a single Command Post.
2. North Memorial Ambulance- Will assume a Command Position and if other agencies are involved will operate in a Unified Command System from a single Command Post.
3. Complete an additional size up of the situation.

4. Activate additional staff
5. Activate mutual aid resources
6. Activate any contractors already pre-identified to assist.
7. Delegate Incident Command Positions to divide up the scope of operations.
8. Support staff with additional resource requests.
9. Maintain Situational Awareness and provide timely information to the Command and General Staff.
10. Update the EOC staff with timely progress reports.
11. Provide for the care and welfare of operating staff.
12. Participate in meetings and assist in drafting the Incident Action Plans.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #9

SEARCH & RESCUE

PRIMARY

The primary responsibility for search and rescue operations affecting the City of Brainerd will be under the direction of the Brainerd Fire Department in close coordination with the Brainerd Police Department and Crow Wing County Sheriff's Office.

LOCAL SUPPORT

North Memorial Ambulance
Crow Wing County Emergency Management
Crow Wing County Law Enforcement
Crow Wing County Fire Departments
Brainerd Lakes Regional Airport Fire Rescue

STATE RESOURCE

Minnesota Taskforce #1
Minnesota Department of Homeland Security and Emergency Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #9 Search and Rescue is to provide emergency coordination and support as it relates to a search and rescue operation either in the outdoor environment or in

collapsed buildings within the community. In addition, this is also to coordinate operations with other supporting agencies.

SCOPE

Within the operation of ESF #9 the responsibilities include;

1. Identify the safety considerations for building collapse rescue.
2. Monitor and provide timely situational updates on the status of the incident to the EOC.
3. Identify alternative strategies to temporarily deal with public health issues as well as provide medical care coverage.
4. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #9 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Search and Rescue related emergencies include;

1. Lost Person in an urban area.
2. Lost person in a wilderness area.
3. Structural Collapse with trapped victims

When this ESF is enacted then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the Brainerd Fire Department in a Unified Command System with the Brainerd Police Department and Crow Wing County Sheriff's Office. Notification and activation can come through Crow Wing County Dispatch or a staff member directly. Minnesota Taskforce #1-Structural Collapse Team can be requested through the Minnesota Duty Officer.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - a. Incident Command Post (ICP)
 - b. Fire Department
 - c. Emergency Operations Center (EOC)
2. Establish an Operations Section Chief or Fire Branch Director position and begin to identify affected areas and operational needs.
3. Establish a Public Information Officer position to maintain information regarding the incident to all parties involved in the incident.

4. Work closely with the Situational Unit Leader to identify exactly what areas are affected and prioritization of operations.
5. Establish an Investigation Branch Director as soon as possible to begin the collection of evidence.
6. Maintain Situational Awareness and provide timely information to the Command and General Staff.
7. Provide timely information to the Administrative and Elected Officials.
8. Identify Operational Periods to ensure continuity of operations to resolve the situation.
9. Identify the future resource needs for the management of operations.
10. Demobilize the Incident Management Team.
11. Complete an After Action Review and establish a Corrective Action Plan.
12. Maintain documentation on the incident within the department and copy Crow Wing County Emergency Management if needed.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #10

HAZARDOUS MATERIALS

PRIMARY

The primary responsibility for hazardous materials operations affecting the City of Brainerd will be under the direction of the Brainerd Fire Department.

LOCAL SUPPORT

North Memorial Ambulance
Crow Wing County Emergency Management
Crow Wing County Fire Departments

STATE RESOURCE

Minnesota Regional Hazardous Materials Response Teams
Minnesota Department of Homeland Security and Emergency
Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #10 Hazardous Materials is to provide emergency coordination and support as it relates to a hazardous materials release within the community. In addition, this is also to coordinate operations with other supporting agencies.

SCOPE

Within the operation of ESF #10 the responsibilities include;

1. Identify the safety considerations for and response and community during a hazardous materials incident.
2. Monitor and provide timely situational updates on the status of the incident to the EOC.
3. Identify alternative strategies to temporarily deal with public health issues as well as provide medical care coverage.
4. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #10 agencies.

RADIOLOGICAL PROTECTION

The City of Brainerd is located 107 miles north of the Monticello Nuclear Power Plant and could be in a radiological ingestion pathway. However, the community does not have the ability to cannot fully respond to this type of hazard and they will refer their operations to the Crow Wing County Emergency Operations Plan and the State of Minnesota.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all hazards-hazards” type of plan. Hazardous materials related emergencies include;

1. Chemical release from a pipeline.
2. Chemical release on a transportation network.
3. Chemical release within a building
4. Chemical release on a property
5. Radiological fallout from the Monticello Nuclear Power Plant.

When this ESF is enacted then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the City of Brainerd Fire Department. Notification and activation can come through Crow Wing County Dispatch or a staff member directly. If a Minnesota Regional Hazardous Materials Team is needed, they can be requested through the Minnesota Duty Officer.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

If the community will need to be notified of a chemical leak and either evacuate or shelter in place the Incident Commander will coordinate the notification with the City of Brainerd Elected Officials and City Staff. However, if a life threat exists which requires immediate notification, the Incident Commander will make the decision decide to evacuate or shelter in place residents and then notify the City of Brainerd.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - a. Incident Command Post (ICP)
 - b. Fire Department
 - c. Emergency Operations Center (EOC)
2. Establish an Operations Section Chief or Hazardous Materials Branch Director position and begin to identify affected areas and operational needs.
3. Isolate the area per the Emergency Response Guidebook recommendations.
4. Establish a Public Information Officer position to maintain information regarding the incident to all parties involved in the incident.
5. Work closely with the EOC to identify exactly what areas are affected and prioritization of operations.
6. Identify the nature of the situation what communication systems might be affected and the duration of the outage.
7. Determine the risk to the community and determine if an evacuation or shelter- in place is needed.
8. Maintain Situational Awareness and provide timely information to the Command and General Staff.
9. Provide timely information to the Administrative and Elected Officials.
10. Identify Operational Periods to ensure continuity of operations to resolve the situation.

11. Identify the future resource needs for the management of operations.
12. Demobilize the Incident Management Team.
13. Complete an After Action Review and establish a Corrective Action Plan.
14. Maintain documentation on the incident within the department and copy Crow Wing County Emergency Management if needed.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #11

AGRICULTURE & NATURAL RESOURCES

PRIMARY

The primary responsibility for agriculture and natural resources affecting the City of Brainerd will be under the direction of the Crow Wing County Public Health Department.

LOCAL SUPPORT

CROW WING COUNTY EMERGENCY MANAGEMENT
CROW WING COUNTY PUBLIC HEALTH DEPARTMENT
CROW WING COUNTY ENVIRONMENTAL

STATE RESOURCE

MINNESOTA DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT
MINNESOTA NATIONAL GUARD

PURPOSE

Emergency Support Function (ESF) #11 Agriculture and Natural resources are to provide emergency coordination and support as it relates to the protection of animals, land, and water within the

community. In addition, this is also to coordinate operations with other supporting agencies.

SCOPE

Within the operation of ESF #11 the responsibilities include;

1. Monitor and provide timely situational updates on the status of the incident to the EOC.
2. Identify alternative strategies to temporarily deal with public health issues as well as provide medical care coverage.
3. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #11 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Agriculture and Natural Resource related emergencies include;

- Animal disease outbreak
- Care for household pets
- Food safety
- Protection of land and water resources.

When this ESF is enacted then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the Public Works in close coordination with Crow Wing County Public Health. Notification and activation can come through Crow Wing County Dispatch or a staff member directly. If a Minnesota Regional Hazardous Materials Team is needed, they can be requested through the Minnesota Duty Officer.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

1. Public Works- Will assume a Command Position and if other agencies are involved will operate in a Unified Command System from a single Command Post.
2. Complete an additional size up of the situation.
3. Complete a Site Safety Plan.
4. Activate additional staff.
5. Activate mutual aid resources.
6. Activate any contractors already pre-identified to assist.
7. Delegate Incident Command Positions to divide up the scope of operations.
8. Support staff with additional resource requests.
9. Maintain Situational Awareness and provide timely information to the Command and General Staff.
10. Update the EOC staff with timely progress reports.
11. Provide for the care and welfare of operating staff.

12. Participate in meetings and assist in drafting the Incident Action Plans.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #12

POWER

PRIMARY

The primary responsibility for power affecting the City of Brainerd will be under the direction of the Public Utilities Commission.

LOCAL SUPPORT

Crow Wing County Emergency Management
Crow Wing Power Company
MN Power
Xcel Energy
Center Point Energy- Gas

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency
Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #12- Power is to provide emergency coordination and support as it relates to utilities within the community. In addition, this is also to coordinate operations with other supporting agencies.

SCOPE

Within the operation of ESF #12 the responsibilities include;

1. Monitor and provide timely situational updates on the status of the incident to the EOC.
2. Identify alternative strategies to temporarily deal with power issues.
3. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #12 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Power related emergencies include;

1. Power outage
2. Potential or planned power outage
3. Gas Outage

When this ESF is enacted then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is Brainerd Public Utilities. Notification and activation can come through Crow Wing County Dispatch or a staff member directly. If a Minnesota

Regional Hazardous Materials Team is needed, they can be requested through the Minnesota Duty Officer.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
2. Incident Command Post (ICP)
3. Emergency Operations Center (EOC)
4. Establish an Operations Section Chief or Law Enforcement Branch Director position and begin to identify affected areas and operational needs.
5. Establish a Public Information Officer position to maintain information regarding the incident to all parties involved in the incident.
6. Work closely with the EOC to identify exactly what areas are affected and prioritization of operations.
7. Identify the nature of the situation what communication systems might be affected and the duration of the outage.
8. Determine the risk to the community and determine if an evacuation or shelter- in place is needed.

9. Maintain Situational Awareness and provide timely information to the Command and General Staff.
10. Provide timely information to the Administrative and Elected Officials.
11. Identify Operational Periods to ensure continuity of operations to resolve the situation.
12. Identify the future resource needs for the management of operations.
13. Once the power has been restored, communicate the information to all affected parties.
14. Demobilize the Incident Management Team.
15. Complete an After Action Review and establish a Corrective Action Plan.
16. Maintain documentation on the incident within the department and copy Crow Wing County Emergency Management if needed.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #13

LAW ENFORCEMENT & SECURITY

PRIMARY

The primary responsibility for Public Safety and Security operations affecting the City of Brainerd will be under the direction of the Brainerd Police Department.

LOCAL SUPPORT

Crow Wing County Sheriff's Office
Crow Wing County Police Departments
Crow Wing County Emergency Management

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency
Management
Minnesota National Guard

PURPOSE

Emergency Support Function (ESF) #13 Public Safety and Security is to provide emergency coordination and support as it relates to law enforcement activities within the community. In addition, this is also to coordinate operations with other supporting agencies.

SCOPE

Within the operation of ESF #13 the responsibilities include;

1. Monitor and provide timely situational updates on the status of the incident to the EOC.
2. Identify alternative strategies to temporarily deal with issues as well as provide medical care coverage.
3. Provide investigation to all criminal activities within the City of Brainerd.
4. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #13 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Law enforcement-related emergencies include;

1. Felony or misdemeanor crimes.
2. Medical emergencies.
3. Investigations

When this ESF is enacted then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is Brainerd Police Department. Notification and activation can come through Crow Wing County Dispatch or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - a. Incident Command Post (ICP)
 - b. Sheriff's Office
 - c. Emergency Operations Center (EOC)
2. Establish an Operations Section Chief or Law Enforcement Branch Director position and begin to identify affected areas and operational needs.
3. Establish a Public Information Officer position to maintain information regarding the incident to all parties involved in the incident.
4. Work closely with the Situational Unit Leader to identify exactly what areas are affected and prioritization of operations.

5. Identify the nature of the situation what communication systems might be affected and the duration of the outage.
6. Determine the risk to the community and determine if an evacuation or shelter- in place is needed.
7. Maintain Situational Awareness and provide timely information to the Command and General Staff.
8. Provide timely information to the Administrative and Elected Officials.
9. Identify Operational Periods to ensure continuity of operations to resolve the situation.
10. Identify the future resource needs for the management of operations.
11. Once the communication system has been restored, communicate the information to all affected parties.
12. Demobilize the Incident Management Team.
13. Complete an After Action Review and establish a Corrective Action Plan.
14. Maintain documentation on the incident within the department and copy Crow Wing County Emergency Management if needed.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #14

LONG TERM RECOVERY

PRIMARY

The primary responsibility for long-term recovery operations affecting the City of Brainerd will be under the direction of the City Administrator.

LOCAL SUPPORT

Crow Wing County Emergency Management

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency Management

PURPOSE

Emergency Support Function (ESF) #14 Long Term Recovery is to provide emergency coordination and support as it relates to the reconstitution of business operations within the community. This ESF can be utilized to support Continuity of Operations Planning (COOP) as required by other Federal legislation. In addition, this is also to coordinate operations with other supporting agencies.

Scope

Within the operation of ESF #14 the responsibilities include;

1. Monitor and provide timely situational updates on the status of the incident to the EOC.
2. Provide an assessment of critical operations and prioritize which will need to be revitalized first.
3. Provide direction on what operations can be reconstituted in alternate locations.
4. Identify alternative strategies to temporarily deal with issues as well as provide medical care coverage.
5. Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #14 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. Critical business systems which can be affected in the event of a disaster are;

1. Billing and payroll
2. Historical city operation data files
3. Building files
4. Road and bridge inspection files
5. Public meeting minutes

When this ESF is enacted then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard

Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the City Administrator. Notification and activation can come through Crow Wing County Dispatch or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - i. Incident Command Post (ICP)
 - ii. Emergency Operations Center (EOC)
 - iii. Department Operating Center (DOC)
2. Establish a Planning Section Chief and Logistic Section Chief position and begin to identify affected areas' needs.
3. Assign a "Situational Unit Leader" position with the mission of completing a comprehensive and continual size up of the situation.

4. If additional staff help in the above sections is needed then call for additional help from area Emergency Managers and or the Minnesota Type 3 Incident Management Team.
5. Coordinate with the Public Information Officer position to maintain information regarding the incident to all parties involved in the incident.
6. Identify the nature of the situation what communication systems might be affected and the duration of the outage.
7. Determine the risk to the community and determine if an evacuation or shelter- in place is needed.
8. Maintain Situational Awareness and provide timely information to the Command and General Staff.
9. Provide timely information to the Administrative and Elected Officials.
10. Identify Operational Periods to ensure continuity of operations to resolve the situation.
11. Develop Incident Action Plans (IAP) for each operational period.
12. Identify the future resource needs for the management of operations.
13. The Preliminary Damage Assessment forms will be used to collect damage assessment data to determine overall damages in Crow Wing County necessary for effective disaster recovery efforts. These forms are available in the EOC.
14. Damage Assessment team members will report to the EOC to receive forms, supplies, communication equipment, and any necessary assignment instructions from their Team Leaders. When possible, cameras/video camcorders should be provided to team members for documentation.
15. Reports shall be returned to the EOC after assignments and/or communicated to the EOC during collection.

16. The Damage Assessment Team Leader at the EOC is responsible for summarizing the results and developing a comprehensive damage assessment report, including appropriate maps to describe areas of damages.
17. The Damage Assessment Team Leader, in cooperation with the Emergency Management Director, will provide this information to the City Council other EOC staff, and State/Federal Management Agencies.
18. Demobilize the Incident Management Team as the size of the incident shrinks and operational resources are demobilized.
19. Complete an After Action Review and establish a Corrective Action Plan.
20. Maintain documentation on the incident within the department and copy Crow Wing County Emergency Management if needed.

Reconstitution of critical operations is essential to the community. The following is a basic outline to re-establish operations;

ADMINISTRATION DUTIES

With the main administrative offices being located inside of the city it is somewhat likely that a hazard affecting the city may take out the administrative offices. However, if the administrative offices are affected then they will be re-located to the old City Hall building within the community. The duties to be re-established are;

6. City administrative functions
7. Building Permits
8. Community Development

Information Technology will be re-established at the temporary location with a computer, printing, phone, and fax capabilities. Back-ups of all critical files will be utilized to restore the day-to-day operations.

MAINTENANCE DEPARTMENT

The Public Work Department operates equipment out of a central location. If this location should be affected, then they will transfer operations to City Hall to coordinate operations. Until they can acquire new equipment to provide service, they will look to Crow Wing County Highway Department or other contractors for assistance. The duties to be re-established are;

1. Road maintenance and inspections
2. Park Maintenance
3. Bridge inspections

Information Technology will be re-established at the temporary location with a computer, printing, phone, and fax capabilities. Back-up of all critical files will be utilized to restore the day-to-day operations.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan

EMERGENCY SUPPORT FUNCTION #15

EXTERNAL AFFAIRS

PRIMARY

The primary responsibility for external affairs affecting the City of Brainerd is under the direction of the City Council.

LOCAL SUPPORT

Crow Wing County Emergency Management

STATE RESOURCE

Minnesota Department of Homeland Security and Emergency Management

PURPOSE

Emergency Support Function (ESF) #15 External Affairs is to provide coordination and support related to emergency public communication affecting the city. This includes managing the media and emergency communications which provide direction to the community

SCOPE

Within the operation of ESF #15 the responsibilities include;

- Monitor and provide timely situational updates on the status of the affected communication system to the EOC.
- Provide timely communication to the community.
- Provide timely media briefings.

- Identify alternative strategies to manage public communication issues.
- Staff the EOC and assist in drafting the Incident Action Plans for the Operational periods.
- Coordinate and support prevention, preparedness, response, recovery, and mitigation activities among transportation stakeholders within the authorities and resource limitations of ESF #15 agencies.

SITUATION AND ASSUMPTION

The City of Brainerd Emergency Operations Plan is designed as an “all-hazards” type of plan. It focuses on the outcomes of events and incidents rather than the cause. There are several situations in which the communication systems can be affected within the community. Critical public communication activities within the City of Brainerd are;

1. Evacuation/ shelter in-place direction.
2. Media briefings.
3. Community relations during a disaster.

The State of Minnesota has resources to help with media inquiries and interviews. [MN SFM Pocket Media Guide](#)

When managing an incident that requires a large amount of timely accurate public information, then an Incident Action Plan (IAP) will be drafted with the goal of a quick and timely recovery to normal operations. During the drafting of the IAP, these and other considerations will need to be addressed. Additional Standard Operating Procedures may be drafted before an emergency to assist in the coordination of operations and resources.

In addition, if the public information involves the coordination of multiple agencies and messages that a Joint Information Center will be operated so that a single accurate message is conveyed to the community.

DIRECTION AND CONTROL

The agency responsible for the coordination of this ESF is the City Administrator and the City Council. Notification and activation can come through City Hall, Crow Wing County Dispatch, or a staff member directly.

Coordination of this ESF will follow the National Incident Management System (NIMS) framework and Unified Command System will be utilized to manage operations.

CONCEPT OF OPERATIONS

NOTIFICATION AND ACTIVATION

Immediately following the notification to enact this ESF, the following actions will be taken;

1. Report to the identified location for the coordination of operations. IF the establishment of the Incident Command System is needed then establish a working location. The possible locations which may need to be staffed include;
 - a. Incident Command Post (ICP)
 - b. Emergency Operations Center (EOC)
 - c. Department Operating Center (DOC)
2. Establish a Public Information Officer position and begin to identify the affected area's needs.

3. Assign a “Situational Unit Leader” position with the mission of completing a comprehensive and continual size up of the situation.
4. If additional staff help in the above sections is needed then call for additional help from area Emergency Managers and or the Minnesota Type 3 Incident Management Team.
5. Coordinate the public information through the media and other outlets to all parties involved in the incident.
6. Identify the nature of the situation what communication systems might be affected and the duration of the outage.
7. Determine the risk to the community and determine if an evacuation or shelter- in place is needed.
8. City government personnel in the field will be responsible for relaying important information about the emergency/disaster to the PIO.
9. The PIO will be responsible for disseminating information and instructions to the public on a timely basis and will coordinate all County/City news releases.
10. The PIO will be responsible for (handling or arranging for) rumor control.
11. The PIO will be responsible for ensuring that a system exists for responding to the inquiries of families regarding the status of relatives.
12. The Emergency Management Director or designee will be responsible for ensuring that the Emergency Alert System (EAS) is activated when necessary.
13. The Health Officer or designee will be responsible for the preparation of materials that describe the health risks associated with each hazard, the appropriate self-help or first aid actions, and other appropriate survival measures.

14. The Emergency Management Director or designee will be responsible for the preparation of materials for the visually impaired and non-English speaking groups, if appropriate.
15. The Emergency Management Director or designee will be responsible for the preparation of instructions for people who must evacuate from a high-risk area and instructions for sheltering in place.
16. The Emergency Management Director or designee in cooperation with Law Enforcement will be responsible for instructions that identify centrally located staging areas and pickup points for evacuees without private automobiles or other means of transportation.
17. The Emergency Management Director or designee will be responsible for preparing instructions for the evacuee's use upon arrival in a hosting area. Such instructions will indicate the location of reception centers, shelters, lodging, feeding facilities, and medical centers.
18. If it becomes necessary to establish a news briefing room, a room will be designated by the EOC. The news media personnel will be asked to report to this facility.
19. In the event of a protracted disaster/emergency, news releases will be issued regularly.
20. Public information will be disseminated through all media outlets providing service to Crow Wing County.
21. Maintain Situational Awareness and provide timely information to the Command and General Staff.
22. Provide timely information to the Administrative and Elected Officials.
23. Maintain a press briefing schedule.
24. Identify Operational Periods to ensure continuity of operations to resolve the situation.

25. Develop Incident Action Plans (IAP) for each operational period.
26. Identify the future resource needs for the management of operations.
27. Some pre-identified basic public information messages to use as a guide for disaster communications are.

REFERENCES

City and Department Standard Operating Guidelines
City of Brainerd Emergency Operations Plan
Crow Wing County Emergency Operations Plan
Minnesota Emergency Operations Plan



Brainerd City Council Agenda Request

Requested Meeting Date: 07/05/2022

Title of Item: Event/ Parking Lot Closure Application- Dangie 5K

☐ 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 1 st Reading
Submitted by: Engineering	Department: Engineering
Presenter (Name & Title): Paul Sandy, Interim City Engineer	Estimated Time Needed: 5 minutes
Summary of Issue: Attached is an event application for the DANGIE 5K to be held on August 6th, 2022 in Kiwanis and Rotary Park.	
Alternatives, Options, Effects on Others/Comments: This applicant has run this event in the park before. This is a walking or running 5K event of approximately 50-100 people. There will be banners, a blow up arch, flags to mark the trail, 2 tables with food and water, t-shirts, and registration. The applicant has a small power need to show the race time on a small TV. This event has taken place in the past, and there were no issues. The applicant reserved the pavilion through the Park Department.	
Recommended Action/Motion: Staff recommends approval of the application under the condition that the applicant remove any banners/signs/etc. immediately after event conclusion.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☐ Yes ☒ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☐ Yes ☐ No <i>Please Explain:</i>	



SPECIAL EVENT APPLICATION

Date of Application: 06/07/2022

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: DANGIE 5k

Organizer Information

Organizer's Name: DANGIE 5k
Organizer's Address: 10916 East Gull Lake Dr. Brainerd, MN 56401
Event Contact Person: Kalee Guderjohn
Event Contact Daytime Phone: 218-821-4591
Event Contact E-mail Address: kguderjohn1993@gmail.com
Contact Name/Number Day of Event: Kalee Guderjohn/218-821-4591
For Profit/Nonprofit Status (type): Non Profit-American Cancer Society

Applicant information (if different from the event organizer):

Applicant Name: Kalee Guderjohn
Applicant Address: 10916 East Gull Lake Dr. Brainerd, MN 56401
Applicant Phone: 218-821-4591
Applicant E-mail Address: kguderjohn1993@gmail.com

Event Information

Event Details (list each date separately)

Event Date	Start Time	End Time	Event Location(s) – see locations listed below
08/06/2022	8am	12pm	Kiwani's Park

☒ 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:

5k event-starting line will be in the parking lot of Kiwani's park and go up the trail, turning around and going around boom lake.

No street closures are needed for this event and this is the 3rd year of our event being held at this location.

Last year the total number of participants was approximately 60

Site Information

Electrical usage

☒

Yes

☐

No

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

We have pavillion one reserved with Brainerd Parks and Rec

to use electricity for stereo and timing system for the race

Amplified Sound

☒

Yes

☐

No

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

Standard stereo with microphone attachment

Restrooms provided

☒

Yes

☐

No

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

Company contracted for restrooms: Brainerd Parks and Rec

(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:

Blow up Banner for the entrance of the race and flags to mark the trail/route

Trash Receptacle Disposal

☐

Yes

☒

No

Company contracted for trash receptacle disposal: _____

Additional Event Information

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

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

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):

No closures are needed for this event

Date and time for beginning of street closures: _____

Date and time for reopening of streets: _____

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

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

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

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

Hold Harmless Agreement and Insurance Information

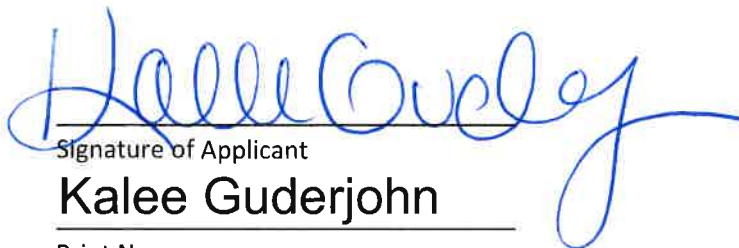
The Applicant covenants to save, defend, hold harmless, and indemnify the City of Brainerd and all of its officers, departments, agencies, agents, and employees (collectively the "City") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and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

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

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

Signature of Event Applicant

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


Signature of Applicant
Kalee Guderjohn
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		
City Administration		
Engineering Department		
Fire Department		
Fire Support/EMS		
Parks Department		
Planning Department		
Police Department		

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

Certification of Street Closure Approval

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



Brainerd City Council Agenda Request

Requested Meeting Date: 07/05/2022

Title of Item: Event/ Alley Closure Application- Crossing Arts Alliance Appreciation Picnic

☐ 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 1 st Reading
Submitted by: Engineering	Department: Engineering
Presenter (Name & Title): Paul Sandy, Interim City Engineer	Estimated Time Needed: 5 minutes
Summary of Issue: Attached is an event application from Crossing Arts Alliance for a volunteer appreciation picnic to take place on July 21st, 2022.	
Alternatives, Options, Effects on Others/Comments: This application is for an alley closure of the alley between Crossing Arts and the Knotty Pine Bakery. The closure will be from 2-5 pm there should be no disturbance to businesses or residential. The applicant should contact the Street Department 1 week prior to the event for closure materials.	
Recommended Action/Motion: Staff recommends approval of 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: 6/20/2022

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: Crossing Arts Volunteer Appreciation Picnic

Organizer Information

Organizer's Name: Jill Casper- Crossing Arts
Organizer's Address: 711 Laural Street
Event Contact Person: Jill Casper
Event Contact Daytime Phone: 218-330-9316
Event Contact E-mail Address: jcasper@mmfcu.org
Contact Name/Number Day of Event: Jill Casper- 218-330-9316
For Profit/Nonprofit Status (type): Crossing Arts

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
July 21st, 2022	2pm	5pm	Alley next to 711 Laurel

☐ 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:

Crossing Arts board members would like to grill for Crossing Arts

staff, volunteers and community supporters from 2-5pm on July 21st.

We would bring a gas grill, and tables. Clean up would be done by 5pm.

Site Information

Electrical usage

☐

Yes

☒

No

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

Amplified Sound

☐

Yes

☒

No

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

Restrooms provided

☐

Yes

☒

No

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

Company contracted for restrooms: _____

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

Signs, banners, and/or posters/flyers

☐

Yes

☒

No

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

Trash Receptacle Disposal

☐

Yes

☒

No

Company contracted for trash receptacle disposal: _____

Additional Event Information

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

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

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):

Alley between Crossing Arts and Knotty Pine Bakery

Date and time for beginning of street closures: July 21st at 2pm

Date and time for reopening of streets: July 21st at 5pm

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.

No disturbance to businesses or residential

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

Jill A Casper

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

Contact Information

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

For Official Use Only

Department Sign-offs Required

Department	Date/Initials	Comments
Brainerd Public Utilities		
City Administration		
Engineering Department		Contact Streets Department for closure materials.
Fire Department		
Fire Support/EMS		
Parks Department		
Planning Department		
Police Department		

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

Contact Streets Department for closure materials 1 week prior 218-513-4412

Certification of Street Closure Approval

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



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Approve Testing Services Contract with ITT for Imp. 19-02-CLT West Seg.

☐ 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: Interim City Engineer Sandy	Department: Engineering
Presenter (Name & Title): Interim City Engineer Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request are quotes from Braun Intertec and ITT for testing services as it relates to Improvement 19-02 - Cuyuna Lakes State Trail West Segment.	
Alternatives, Options, Effects on Others/Comments: Materials testing is performed on construction contracts to verify the materials and construction methods being supplied and performed by the contractor meet the intended materials testing specifications (material types, compaction, concrete testing, etc). These two firms have proposed substantially the same work and testing frequency. The quote from ITT for testing services is quoted at \$7,770 and the quote from Braun Intertec is \$12,119.	
Recommended Action/Motion: Staff recommends approval of the quote for materials testing services from ITT in the total amount of \$7,770 for Improvement 19-02 - Cuyuna Lakes State Trail West Segment.	
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>7,770</u> <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i> This becomes a part of the total engineering cost for the project and is a reimbursable expense through the MnDNR grant for this project.	



INDEPENDENT TESTING TECHNOLOGIES

337 31st Avenue South • Waite Park, MN 56387 • (320) 253-4338 • www.independenttestingtech.com

June 21, 2022

Mr. James J. Fladung
Assistant City Engineer
501 Laurel Street
Brainerd, MN 56401

E-Mail: jfladung@ci.brainerd.mn.us

RE: **ITT Proposal #06-36**
Cuyuna Lakes State Trail Extension – West Segment
Brainerd, Minnesota

Dear Mr. Fladung,

We are pleased to submit this proposal to provide the construction materials testing for the above referenced project in Brainerd, Minnesota. We will provide, on an on-call basis, certified and experienced field and laboratory consultants to conduct the necessary testing services for the project as detailed on the attached cost estimate.

Based on our estimated quantities and scope of service, the cost for testing services will be **\$7,770.00**. Please note that if all the tests we have estimated are not conducted, you will only be billed for the tests performed.

Mr. Fladung, we would be pleased to work with you on this project. If you have any questions about our company or the scope of services we offer, please feel free to contact me. I look forward to hearing from you.

Sincerely,

Tyler T. Burkes, EIT
Construction Materials Division Manager / Estimator

Independent Testing Technologies, Inc.
337 31st Avenue South
Waite Park, MN 56387
Phone: 320-253-4338

June 21, 2022
Proposal #06-36

Client: **City of Brainerd – James J. Fladung**

Project: **ITT Proposal #06-36**
Cuyuna Lakes Trail Extension – West Segment
Brainerd, Minnesota

Cost Estimate:

<u>Description</u>		<u>Qty.</u>	<u>Unit Rate</u>	<u>Extension</u>
	<u>Roadway Scope</u>			
Project Management, hourly		5	\$ 85.00	\$ 425.00
Final Report, lump sum		1	\$ 500.00	\$ 500.00
Laboratory Proctor Tests – Subgrade Material, each		2	\$ 200.00	\$ 400.00
Nuclear Density Tests – Finished Subgrade, each		11	\$ 30.00	\$ 330.00
Laboratory Proctor Tests – Aggregate Base, each		1	\$ 200.00	\$ 200.00
Gradations – Aggregate Base, each		2	\$ 90.00	\$ 180.00
Nuclear Density Tests – Aggregate Base, each		11	\$ 30.00	\$ 330.00
Percent Crushed, each		—	\$ 80.00	AS NEEDED
Bituminous Properties (Extraction, Gradation & Air Voids), each		2	\$ 400.00	\$ 800.00
Bituminous Plant Monitoring, hourly		—	\$ 100.00	AS NEEDED
Density of Pavement Cores, Companions, each		—	\$ 50.00	AS NEEDED
Nuclear Density Tests – Wear Course, each		—	\$ 50.00	AS NEEDED
Trip Charges (Travel Time & Mileage), each		10	\$ 175.00	\$ 1,750.00
Subtotal:				\$ 4,915.00
	<u>Concrete Testing</u>			
Concrete (Air, Slump, Casting, Curing, Compression of Cylinders), per set of 3		8	\$ 160.00	\$ 1,280.00
Trip Charges (Travel Time & Mileage), each		9	\$ 175.00	\$ 1,575.00
Subtotal:				\$ 2,855.00
TOTAL:				\$ 7,770.00

Submitted By:
Tyler T. Burkes, EIT
tylerb@ittmn.com

May 31, 2022

Proposal QTB159751

James Fladung, PE
City of Brainerd
501 Laurel Street
Brainerd, MN 56401

Re: Proposal for Construction Materials Testing Services
2022 Cuyuna Lakes State Trail Extension-West Extension
Brainerd, Minnesota

Dear Mr. Fladung:

Braun Intertec Corporation is pleased to submit this proposal to provide construction materials testing services for 2022 Cuyuna Lakes State Trail Extension-West Project in Brainerd, Minnesota.

Our Understanding of Project

This project will include grading and utility installation, along with new retaining wall, pavement subgrade preparation, aggregate base placement, concrete curb and gutter, sidewalks, driveways, and new bituminous pavement.

Available Project Information

This proposal was prepared using the following documents and information.

- Project plans and specifications prepared by SEH, dated March 25, 2022.
- Discussions with Mr. Casey Zins, with SEH on the scope of work.

Scope of Services

Construction Materials Testing

Services are performed under the direction of a licensed professional engineer. Testing services will be performed on an on-call basis, as requested, and scheduled by you or your on-site project representative. After reviewing available information to determine compliance with project plans and/or specifications and other design or construction documents, our scope of services for the project will be limited to the tasks defined below.

Soil Related Services

- Measure the in-place dry density, moisture content and relative compaction of fill placed for pavement subgrade materials for compliance with the project documents. This task includes performing laboratory Proctor tests to provide maximum dry densities from which the relative compaction of fill can be determined, as well as the use of a nuclear density gauge to measure in-place dry densities and moisture contents.
- Sample and test aggregate base materials for compliance with the project documents. This task includes laboratory gradation testing of aggregate base material.
- Perform MnDOT dynamic cone penetrometer (DCP) tests on aggregate base material.

Concrete Related Services

- Sample and test fresh concrete for compliance with the project documents and cast test cylinders for laboratory compressive strength testing. We assume that we will be able to appropriately dispose of excess concrete (and associated wash water) on site at no additional cost to us.
- Measure and report the compressive strength of the concrete test cylinders for compliance with the project documents. A set of three cylinders will be tested at 28 days for each set cast. If field cure cylinders are requested, each additional cylinder will be charged at the unit price listed in our cost estimate.

Bituminous Related Services

- Sample and test bituminous pavement materials for compliance with the project documents. This task includes Rice specific gravity, Gyratory density, asphalt content and extracted aggregate gradation tests of the bituminous.

Consulting, Project Communication and Reporting Services

- Project management, including scheduling of our field personnel.
- Review test reports and communicating with you and the parties you may designate such as the project contractor(s), and other project team members, as needed.
- Transmit test results to the project team on a weekly basis.

Basis of Construction Materials Testing Scope of Work

The costs associated with the proposed scope of services were estimated using the following assumptions. If the construction schedule is modified or the contractor completes the various phases of the project at different frequencies or durations than shown in this proposal, we may need to adjust the overall cost accordingly. The scope of work and number of trips required to perform these services are as shown in the attached table. Notable assumptions in developing our estimate include:

- We understand compaction testing of subgrade materials will be performed using the nuclear density gauge method; we assume it will take two trips to complete the nuclear density gauge testing.
- We assume testing of the aggregate base will be Modified DCP's; we assume it will take two trips to complete the testing.
- We assume 9 sets of concrete tests will be required to complete the project.
- We assume the full-time on-site construction observer will observe any test rolling for this project.
- We assume one bituminous sample will be collected for property testing.
- We assume the project engineer of record will review and approve contractor's quality control submittals and test results.
- You, or others you may designate, will provide us with current and approved plans and specifications for the project. Modification to these plans must also be sent to us so we can review their incorporation into the work.
- We will require a minimum of 24 hours' notice for scheduling inspections for a specific time. Shorter than 24 hours' notice may impact our ability to perform the requested services, and the associated impacts will be the responsibility of others.

If the work is completed at different rates than described above, this proposal should be revised. If the pace of construction is different than described above, this proposal should be revised.

Cost and Invoicing

We will furnish the services described herein for an estimated fee of **\$12,119.00**. We will furnish the proposed scope of work described herein on an hourly and unit-cost basis. **Our estimated costs are based on industry averages for construction production. Depending on the contractor's performance, our costs may be significantly reduced or slightly higher than estimated.** The actual cost of our services will be based on the actual units or hours expended to meet the requirements of the project documents.

This cost estimate was developed with the understanding that the scope of services defined herein will be required and requested during our normal work hours of 6:00 a.m. to 4:00 p.m., Monday through Friday. Services that we are asked to provide to meet the project requirements or the contractor's construction schedule **outside** our normal business hours will be invoiced using an overtime rate factor. The factor for services provided outside our normal work hours or on Saturday will be 1.25 times the listed hourly rate for the service provided. The factor for services provided on Sunday or legal holidays will be 1.5 times the listed hourly rate for the service provided. We have not included premiums for overtime in our cost estimate; however, we recommend that allowances and contingencies be made for overtime charges based on conversations with the contractor. You will be billed only for services provided on a time and materials basis.

Because our services are directly controlled by the schedule and performance of others, the actual cost may vary from our estimate. It is difficult to project all the services and the quantity of services that may be required for any project. If services are required that are not discussed above, we will provide them at the rates shown in the attached table or, if not shown, at our current Schedule of Charges. We will invoice you on a monthly basis.

General Remarks

We will be happy to meet with you to discuss our proposed scope of services further and clarify the various scope components.

We appreciate the opportunity to present this proposal to you. After reviewing this proposal. If anything in this proposal is not consistent with your requirements, please let us know immediately. Braun Intertec will not release any written reports until we have received a signed agreement. Also, ordering services from Braun Intertec constitutes acceptance of the terms of this proposal.

The proposed fee is based on the scope of services described and the assumption that our services will be authorized within 30 days and that others will not delay us beyond our proposed schedule.

We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

To have questions answered or schedule a time to meet and discuss our approach to this project further, please contact Keith Kluempke at 320.980.3181 or (kkluempke@braunintertec.com).

Sincerely,

BRAUN INTERTEC CORPORATION



Thomas L. Henkemeyer
Senior Project Manager



Steven A. Thayer, PE
Business Unit Manager-Senior Engineer

Attachments:

QTB159751 Cost Estimate Table – Construction Materials Testing
General Condition (CMT)

The proposal is accepted. We will reimburse you in accordance with this agreement, and you are authorized to proceed:

Authorizer's Firm

Authorizer's Signature

Authorizer's Name (please print or type)

Authorizer's Title

Date

Project Proposal

QTB159751

2022 Cuyuna Lake State Trail Extension-West

Client:

City of Brainerd
James Fladung
501 Laurel St
Brainerd, MN 56401
(218) 828-2309

Work Site Address:

Brainerd, MN

Service Description:

Construction Materials Testing

	Description	Quantity	Units	Unit Price	Extension
Phase 1	MnDOT Testing				
Activity 1.1	Soil Testing				\$2,696.00
207□	Compaction Testing - Nuclear	8.00	Hour	82.00	\$656.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Subgrade Preparation	2.00	Trips	4.00	8.00
1308□	Nuclear moisture-density meter charge, per hour	8.00	Each	24.00	\$192.00
217□	Compaction Testing - DCP's	8.00	Hour	82.00	\$656.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Aggregate Base	2.00	Trips	4.00	8.00
209□	Sample pick-up	3.00	Hour	82.00	\$246.00
1318□	Moisture Density Relationship (Proctor)	1.00	Each	185.00	\$185.00
1162□	Sieve Analysis with 200 wash, per sample	1.00	Each	136.00	\$136.00
1861□	CMT Trip Charge	5.00	Each	125.00	\$625.00
Activity 1.2	Concrete Testing				\$7,220.00
261□	Concrete Testing	40.50	Hour	82.00	\$3,321.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Sidewalks	3.00	Trips	4.50	13.50
	Curb & Gutter	3.00	Trips	4.50	13.50
	Driveway Aprons	3.00	Trips	4.50	13.50
1364□	Compressive strength of concrete cylinders, per specimen	27.00	Each	31.00	\$837.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Sidewalks	3.00	Set	3.00	9.00
	Curb & Gutter	3.00	Set	3.00	9.00
	Driveway Aprons	3.00	Set	3.00	9.00
278□	Concrete Cylinder Pick up	16.00	Hour	82.00	\$1,312.00
	<i>Work Activity Detail</i>	<i>Qty</i>	<i>Units</i>	<i>Hrs/Unit</i>	<i>Extension</i>
	Cylinder Pickup	5.00	Trips	3.25	16.25
1861□	CMT Trip Charge	14.00	Each	125.00	\$1,750.00
Activity 1.3	Pavement Testing				\$972.00
1744□	MnDOT Verification Without Percent Crush & FAA	1.00	Each	519.00	\$519.00
209□	Sample pick-up	4.00	Hour	82.00	\$328.00
1861□	CMT Trip Charge	1.00	Each	125.00	\$125.00
Activity 1.4	Project Management				\$1,231.00
226□	Project Manager	5.00	Hour	160.00	\$800.00
228□	Senior Project Manager	1.00	Hour	185.00	\$185.00
238□	Project Assistant	3.00	Hour	82.00	\$246.00
Phase 1 Total:					\$12,119.00

Proposal Total: \$12,119.00

Section 1: Agreement

1.1 Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

1.2 The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

1.3 In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

Section 2: Our Responsibilities

2.1 We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

2.2 In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

2.3 We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and

further that site conditions may vary over distance or change over time.

2.4 Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

2.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

2.6 You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

2.7 Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

Section 3: Your Responsibilities

3.1 You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

3.2 You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

3.3 If we notify you that radiographic or gamma ray equipment or other nuclear testing or measuring device will be used, you will be responsible for the cooperation of your employees and your contractors in observing all radiation safety standards.

3.4 You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

3.5 The time our field personnel spend on the job site depends upon the scheduling of the work we are observing or testing. You agree that any changes in scheduling may result in additional

costs and agree to pay for those services at the rates listed in our cost estimate.

3.6 You agree to include us as an indemnified party in your contracts, if any, for work by others on the project, protecting us to the same degree as you are protected. You agree to list us as an Additional Insured under your liability insurance policies and to require subrogation be waived against us and that we will be added as an Additional Insured on all policies of insurance, including any policies required of your contractors or subcontractors, covering any construction or development activities to be performed on the project site.

Section 4: Reports and Records

4.1 Unless you request otherwise, we will provide our report(s) in an electronic format.

4.2 Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

4.3 If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

4.4 Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

Section 5: Compensation

5.1 You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

5.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

5.3 If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is

creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

5.4 Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

5.5 If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

5.6 You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

5.7 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

5.8 If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

Section 6: Disputes, Damage, and Risk Allocation

6.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s) attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

6.2 *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of*

business opportunity, loss of profit or revenue, loss of product or output, or business interruption.

6.3 You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

6.4 *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken.* This increased fee is not the purchase of insurance.

6.5 *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

6.6 This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

6.7 No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

Section 7: General Indemnification

7.1 *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

7.2 To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

Section 8: Miscellaneous Provisions

8.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

8.2 You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

8.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

8.4 This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

8.5 If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8.6 No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Approve Quotes for Improvement 22-04 - 2022 Large Patch 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: Interim City Engineer Sandy	Department: Engineering
Presenter (Name & Title): Interim City Engineer Sandy	Estimated Time Needed: 5 Minutes
Summary of Issue: Attached to this request is two quotes for Improvement 22-04 - 2022 Large Patch Project.	
Alternatives, Options, Effects on Others/Comments: The quotes initially received were from Anderson Brothers Construction and Knife River. The original quote from Anderson Brothers was much lower than Knife River's quote, so City staff engaged Anderson Brothers to add on additional patch work to the quote from Anderson Brothers to utilize the entire \$50,000 budget amount. To that fact, the Knife River quote is the originally submitted quote and the amount that was specified for patching, and Anderson Brother's quote has a higher patching amount in their quote based on their original pricing. We budget \$50,000/year in large patches. These are typically on streets that are not in the 5-year capital improvement plan where staff has identified large areas where a lot of pothole patching has been used, and where it makes more sense to cut out all of the pavement and replace it in lieu of temporarily patching potholes. This increases the longevity of streets and helps to stretch out that life until they can be resurfaced or reconstructed in a future year. Note - Knife River's quote is for about 1,307 square yards of patching, and Anderson Brothers quote is for 1,808 square yards.	
Recommended Action/Motion: Staff recommends approving the quote from Anderson Brothers Construction of Brainerd, LLC in the total amount of \$50,000 (1,808 square yards).	
Financial Impact: Is there a cost associated with this request: ☒ Yes ☐ No What is the total cost, with tax and shipping \$ 50,000 Is this budgeted? ☒ Yes ☐ No <u>Please Explain:</u> We budget \$50,000 out of Construction Fund 401 for large street patches.	



Proposal

Anderson Brothers Construction Company
11325 Hwy 210 E
Brainerd, Minnesota 56401
(218) 829-1768 / (218) 829-7607 Fax

Proposal Submitted To City of Brainerd		Phone 218-513-0173	Date June 21, 2022
Street		Job Name Remove and replace patches	
City, State and Zip Brainerd Mn.		Job Location	
Attn:	Job Phone	Mail To	

We hereby submit specifications and estimates for:

The removal of old asphalt and grading, shaping and construction of a 2.5 " compacted hot mix bituminous wearing course over an area being approximately 1808 square yards.

Note. Also to do the repair on the steps at Quince St.

Note: ½ the total quote is due prior to construction.

All materials and workmanship shall conform to the Department of Transportation Specifications for Highway Construction.

**A land use or alteration permit may be required through your local County or Municipal Planning and Zoning office. All required permits and associated fee's are the sole responsibility of the private property owner.*

(a) ANY PERSON OR COMPANY SUPPLYING LABOR OR MATERIALS FOR THE IMPROVEMENT TO YOUR PROPERTY MAY FILE A LIEN AGAINST YOUR PROPERTY IF THAT PERSON OR COMPANY IS NOT PAID FOR THE CONTRIBUTION. (b) UNDER MINNESOTA LAW, YOU HAVE THE RIGHT TO PAY PERSONS WHO SUPPLIED LABOR OR MATERIALS FOR THIS IMPROVEMENT DIRECTLY AND DEDUCT THIS AMOUNT FROM OUR CONTRACT PRICE, OR WITHHOLD THE AMOUNTS DUE THEM FROM US UNTIL 120 DAYS AFTER COMPLETION OF THE IMPROVEMENT UNLESS WE GIVE YOU A LIEN WAIVER SIGNED BY PERSONS WHO SUPPLIED ANY LABOR OR MATERIALS FOR THE IMPROVEMENT WHO GAVE YOU TIMELY NOTICE.

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

Fifty Thousand Dollars

dollars (\$50,000)

Payment due upon completion. Subject to credit approval.

Past due accounts are subject to a service charge of 1-1/2% per month (18% per annum.)

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized
Signature

Doug Tulenchik
Doug Tulenchik, Project Manager

Acceptance of Proposal — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature

Signature

Date of Acceptance: *X*

Note: This proposal may be withdrawn by us if not accepted within 30 days

Quote for Brainerd Patches 2022

05/27/2022 9:14AM Page 1

KNIFE RIVER CORPORATION - NC

4787 Shadow Wood Drive NE
Sauk Rapids, MN 56379

Phone: (320) 251-9472
Fax: (320) 258-2940

Bond: Included
Sales Tax: Included
Bid Date:

Quote To: James Fladung
City of Brainerd
501 Laurel Street
Brainerd MN 56401

Phone: 218-
Fax:
Email: jfladung@ci.brainerd.mn.us

Quote is valid for 15 days.

Item	Description	Quantity	Unit	Unit Price	Extension
10	Remove and Replace Patches: CL-5 & Bit	11,763.000	SF	4.250	49,992.75
Total Quote: \$					49,992.75

Inclusions/Exclusions:

NOTES:

1. Quote is valid for 15 days.
2. Work to be done sometime in the 2022 construction season.

PAYMENT TERMS:

1. To accept this proposal, sign and return a copy to Knife River Corp.
2. A valid credit account with Knife River Corp. is required before work will be scheduled.
3. No retainage is provided for in this quotation or per owner as required in plans and spec's. Any deducts due to material deficiencies must be in writing and Knife River Corp. notified prior to the invoice being due.
4. All work becomes due and payable within 30 days of the invoice. Balances beyond 30 days are subject to finance charges in accordance with the credit agreement.

ACCEPTANCE:

All material is guaranteed to be as specified. All work will be completed in a workmanlike manner according to standard practices.

Your signature indicates you agree to the prices, specifications and conditions as stated. It gives us authorization to do the work specified and payment will be made as outlined above.

Signature: _____

Printed Name: _____

Title: _____

Firm: _____

Date: _____

Signature: Adam J. Suima

Printed Name: Adam J. Suima

Title: Estimator/Project Manager

Firm: Knife River Corporation - North Central

Date: 5-27-22

Patch	SIZE SQ FT	SIZE SQ YD
Quince St. between SE 13th and 14th	1064	118
710 28th St. SE	1428	159
710 28th St. SE	102	11
710 28th St. SE	63	7
710 28th St. SE	75	8
710 28th St. SE	248	28
703 28th St. SE	110	12
703 28th St. SE	318	35
703 28th St. SE	15	2
806 28th St. SE	217	24
905 28th St. SE	104	12
905 28th St. SE	133	15
818 28th St. SE	270	30
822 28th St. SE	1015	113
827 28th St. SE	350	39
828 28th St. SE	234	26
1219 28th St. SE	955	106
2829 Clara St.	98	11
409 Grove St. and N 4th	920	102
J St. west of 14th Ave NE	423	47
I St. east of 2nd Ave NE	240	27
Intersection of Warrior Ave and Northtown St.	77	9
9th NE south of O St.	277	31
M St. East of 12th Ave NE	891	99
12th NE North of H St.	258	29
13th NE North of L St.	34	4
L St. East of 14th NE	677	75
15th NE South of K St.	278	31
Cedar St. and Emma St.	22	2
SW 6th South of Laurel St.	546	61
2008 Spruce St.	54	6
2014 Spruce St.	174	19
2001 Spruce St. Back Entrance	93	10
Totals	11763	1307



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Direction on Active Code Enforcement Cases

☐ 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): James Kramvik, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: With the adoption of Ordinance No. 1524, the revised Section 320 of the City Code dictates that violations of the City Code shall, after receiving a notice of violation, be issued up to 3 administration citations for non-compliance. Once 3 citations have been issued, the violation shall be brought before the Safety & Public Works Committee for review. The Committee shall then make a recommendation to the City Council as to how to proceed with enforcement of the violation. Staff is bringing 2 properties before the Committee for review. Staff is looking for direction from the Council as how to proceed with the cases..	
Alternatives, Options, Effects on Others/Comments: Attached are case files for 1005 3rd Ave NE and 1106 13th Ave NE Per Section 320, action that could be taken against these properties include: - Continued administrative citations in an amount determined by the City Council - Abatement of the offense (depending on the type of offense) - Legal action (at the recommendation of the City Attorney depending on the type of offense) - Cease corrective action	
Recommended Action/Motion: 1005 3rd Ave NE - Recommend a 10 day order to correct letter and work with the city attorney to abate the property if the property owner fails to comply. 1106 13th Ave NE - Recommend abatement of the grass and fallen tree/ branch debris.	
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>	

June 08, 2022

O'CONNOR, JESSE
1005 3RD AVE NE
BRAINERD, MN 56401

ORDER TO CORRECT ADMINISTRATIVE VIOLATION

Dear Property Owner(s),

Brainerd residents have consistently expressed that clean, well-maintained residential neighborhoods and commercial districts are a high priority. Maintaining these areas has proven to increase property values, provide a higher standard of living, and promotes community pride. A code violation was observed on the property described below. Understanding that you might not be aware of what the City codes require, I am sending you this courtesy notice to give you an opportunity to correct this matter.

Property Address: 1005 3RD AVE NE
Real Estate Code: 41190952

Violation: Grass & Weeds
IPMC302.4

Description: Premises and exterior property shall be maintained free from weeds and plant growth in excess of 6". Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with section 108.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing therein, and the costs of such removal shall be paid by the owner or agent responsible for the property.

This is the only notice you will receive this growing season. Additional violations this growing season will result in an administrative citation and possible abatement.

Corrective action is required; five (5) days are allowed from the date of this letter.

To review City Codes on the web, go to www.ci.brainerd.mn.us/153/City-Code.

Action should be taken on or before 06/13/2022

Per the above-mentioned code section and City Code 320 – Administrative Citations, failure to comply with this ordinance will result in citation(s) according to the following schedule:

1st Citation - \$100.00 | 2nd Citation - \$200.00 | 3rd Citation - \$300.00

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.

If you are unable to make the corrections by the date above or believe this violation is in error, please call this office to discuss or make other arrangements. Office hours are 7:30 to 4:30, Monday through Friday. **Feel free to contact Housing Inspector Jason Stockinger at 218/454-3416 if you have questions.**

Respectfully,
By Order of:
THE CITY OF BRAINERD

History going back to 2014 for junk/debris

2016

- \$300 citations assessed to property for junk/debris

2017

- \$100 citation assessed to property for junk/debris

2019

- \$200 citations assessed to property for junk/debris

2020 - paused code enforcement

2021-2022 Attached letters/photos/citations

- Current \$600 citations open for junk/debris - \$100 for grass









This citation charges you with one or more violations of the
Property Maintenance Code, Ordinance No. 1338

THIS IS THE ONLY NOTICE YOU WILL RECEIVE

Administrative Citation

Department of Building Safety – 218-828-2307

EN22-0112

Date of Violation: 05/24/2022

Parcel ID: 41190952

Violator(s): O'CONNOR, JESSE
1005 3RD AVE NE
BRainerd, MN 56401

Location/Address of Violation: **1005 3RD AVE NE**

VIOLATION

Section	Subdivision, Chapter or Article	Fine
2010.09	Junk/Debris/Blight	\$100.00

If the owner fails to correct the nuisance within the timeframe stipulated in the first notice, the City of Brainerd shall cause such action to correct such nuisance by means of, but not limited to, cutting grass or collecting garbage or junk. The expense thereof shall be billed to the property owner and shall constitute a lien upon such realty. An Administrative Citation is separate and in no way defrays the expense of correcting the nuisance.

Citation Amount Due: \$100.00

Payment Due By: 30 Days from Date of Violation

**Payment may be presented in person or by way of First Class Mail in the form of cash, check or money order, payable to:
City of Brainerd, submitted to the Department of Building Safety, City Hall - 501 Laurel Street; Brainerd, MN 56401.**

Re-inspection Date: 06/03/2022

For uncorrected or continued violations, the City may correct the violation and assess the charges for doing so.

An additional citation will be issued if the violation is not corrected by the re-inspection date.

Failure to pay the fine will result in it being assessed against the property as provided in Minnesota Statute 429.

Unpaid fines, including an administrative charge of \$25.00 plus interest of the total balance, will be assessed against the property of the owner charged with the violation.

When a citation is issued, you must correct the violation and pay the fine. If you decide to contest the violation, you may request a hearing, responding within 10 days from the date of the citation issuance. The purpose of a hearing is to determine whether or not a violation(s) of the city code existed. If you request a hearing and the citation stands, you will be responsible for the hearing costs and fines as determined by the hearing officer as well as correction of the violation. If the citation is contested and a hearing is scheduled, a notice will be mailed to you with the date/time/location of the hearing. If you cannot attend on the scheduled date or wish to request the Hearing Officer be removed from the case, you must do so no later than 15 days prior to the date of the hearing. A new hearing date will be set and another notification will be sent to the party contesting the citation.

Representative: Darrin Deseth, Building Official

Date: 05/24/2022

Representative's Signature:

(served via first class mail)



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Property Maintenance Code, Ordinance No. 1338

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Department of Building Safety – 218-828-2307

EN22-0112

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1005 3RD AVE NE
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Location/Address of Violation: **1005 3RD AVE NE**

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Citation Amount Due: \$200.00

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Representative: Darrin Deseth, Building Official

Date: 06/03/2022

Representative's Signature:

(served via first class mail)



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Property Maintenance Code, Ordinance No. 1338

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Administrative Citation

Department of Building Safety – 218-828-2307

EN22-0112

Date of Violation: 06/13/2022

Parcel ID: 41190952

Violator(s): O'CONNOR, JESSE
1005 3RD AVE NE
BRainerd, MN 56401

Location/Address of Violation: **1005 3RD AVE NE**

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Section	Subdivision, Chapter or Article	Fine
2010.09	Junk/Debris/Blight	\$300.00

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Citation Amount Due: \$300.00

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City of Brainerd, submitted to the Department of Building Safety, City Hall - 501 Laurel Street; Brainerd, MN 56401.**

Re-inspection Date: 06/23/2022

For uncorrected or continued violations, the City may correct the violation and assess the charges for doing so.

An additional citation will be issued if the violation is not corrected by the re-inspection date.

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Representative: Darrin Deseth, Building Official

Date: 06/13/2022

Representative's Signature:

(served via first class mail)

June 08, 2022

FITCH, DONNA L
1106 13TH AVE NE
BRAINERD, MN 56401

ORDER TO CORRECT ADMINISTRATIVE VIOLATION

Dear Property Owner(s),

Brainerd residents have consistently expressed that clean, well-maintained residential neighborhoods and commercial districts are a high priority. Maintaining these areas has proven to increase property values, provide a higher standard of living, and promotes community pride. A code violation was observed on the property described below. Understanding that you might not be aware of what the City codes require, I am sending you this courtesy notice to give you an opportunity to correct this matter.

Property Address: 1106 13TH AVE NE
Real Estate Code: 41190692

Violation: Junk/Debris/Blight
Ordinance: 2010

Description: Ord2010 - 2010.09 Junk. No person, firm, or corporation of any kind shall permit the accumulation of junk that includes but is not limited to any of the following: waste material, trash, rubbish, refuse, or litter of any kind upon any land or inside or under any building or structure which may provide harborage or breeding places for mosquitoes, vermin, or rats.

No person, firm, or corporation of any kind shall permit on a property the accumulation of: batteries; paper; lumber or salvaged wood; boxes or containers; bottles; cans; discarded chemicals; bricks; stones; old or scrap copper, brass, iron, steel, or other metals; old and/or inoperable appliances; tanks; barrels; cages; clothing; pallets; wire/cable; dismantled, abandoned or inoperable vehicles, farm equipment, construction equipment, campers, recreation vehicles, boats, or parts thereof; rope; rags; glass; rubber; construction debris; plumbing fixtures; furniture; brush piles; cut down trees and branches; pulled stumps; leaf piles not in a composting container; or other similar objects and materials which may provide harborage or breeding places for mosquitoes, vermin, or rats. Useful items such as firewood and building materials may be stored in compliance with Section 24 of the Zoning Ordinance provided they are stored in a manner that will not create any danger or threat to public health.

Corrective action is required; 14 days are allowed from the date of this letter.
To review City Codes on the web, go to www.ci.brainerd.mn.us/153/City-Code.

Action should be taken on or before 06/22/2022

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THE CITY OF BRAINERD

June 08, 2022

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1106 13TH AVE NE
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2021

- \$200 Citations for long grass assessed to the property
- Staff abated the issue and hired out for mowing - invoice attached

2022

- neighbor complained in May about long grass/broken tree. Letters were sent
- 6/16/22 - Neighbor called to say the front door is open-longer grass and broken tree. We contacted the PD, who took action to secure the residence.
- Staff called BPU for utility information. The water/electric was shut off in July 2021. Apparently, the property owner passed away in April 2021. They said they cannot find family, etc.

Staff requests permission to abate





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

July 5, 2022

7:00 PM

WebEx Teleconference Call-In Information

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

Access Code: 2499 618 9478

1. Ratify the Hiring of 2022 Seasonal/Temporary Employees
2. Approve Memorandum of Agreement with IBEW- BPU Union for Water Plant Relief Operator Position
3. Approve the Hiring of Jessie Dehn as City Engineer/Public Works Director
4. Consider Approval of the Revised Employee Policy Manual
5. Approve Additional Cost of Clean-Up Day
6. Resolution Setting Pay for Election Judges for Training and the Primary and General Elections
7. Update on Request for Funds to be Returned from Lakes Area Media Collaborative



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Ratify the Hiring of 2022 Summer Temporary Employees

☐ 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: Kris Schubert	Department: Human Resources
Presenter (Name & Title): Kris Schubert, HR Director	Estimated Time Needed: 1 minute
Summary of Issue: Isabella Simota has been hired as a Concession Stand worker for the Parks Division to work evenings and weekends. Isabella was been given a conditional job offer and successfully completed her background checks.	
Alternatives, Options, Effects on Others/Comments: Pursuant to MN Statute, seasonal assignments are limited to 67 working days per calendar year or 100 working days per calendar year if the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment.	
Recommended Action/Motion: Motion to ratify the hiring of Isabella Simota effective June 8, 2022 at \$14.00 per hour as a 2022 Concession Stand worker.	
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 wage for this position was included in the 2022 budget.	



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Approval of Memorandum of Agreement for Water Plant Relief Operator

☐ 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 & Kris Schubert	Department: BPU/Human Resources
Presenter (Name & Title): Kris Schubert, HR Director	Estimated Time Needed: 2 minutes
Summary of Issue: On May 2, 2022, the City Council approved the reinstatement of the Water Plant Relief Operator position with Laborer duties as requested by BPU. That position had been vacant for many years and was not included in the wage grid in the current IBEW BPU Union Contract. In discussing this further with our Consultant and legal counsel, it was recommended that Laborer not be included in the title as the individual is expected to be assigned at the Water Plant for 90% of the time and only occasionally help with Laborer duties when time permits or when needed. Staff then began negotiations with the IBEW Union for a wage for this new position. The attached Memorandum of Agreement (MOA) was sent to the Union for review and consideration. The union has agreed to the wage for the position and signed the attached MOA.	
Alternatives, Options, Effects on Others/Comments: The MOA clarifies that the Water Plant Relief Operator shall be included as a position within the Brainerd Public Utilities bargaining unit. Per the MOA, the wage for this position will be the same as the Water Plant Operator position with Step 1 being \$29.16 per hour.	
Recommended Action/Motion: Motion to approve the attached Memorandum of Agreement between the City of Brainerd and the International Brotherhood of Electrical Workers (IBEW) Local No. 31 Union for the Water Plant Relief Operator position; further, to authorize Staff to begin the hiring process for this position.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☒ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ <u>unknown</u> <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i>	

Memorandum of Agreement

This Memorandum of Agreement (hereinafter, "MOA") is entered into between the City of Brainerd (hereinafter, "City") and the International Brotherhood of Electrical Workers, Local No. 31 (hereinafter, "Union"), on behalf of the Brainerd Public Utilities bargaining unit. The City and the Union are hereinafter referred to collectively as the "parties," and individually as a "party."

WHEREAS, the City and Union are parties to a 2021-2023 collective bargaining agreement (hereinafter, "CBA"). Article 12 of the CBA stipulates pay schedules for classifications; and

WHEREAS, after the CBA went into effect, the City created a new Water Plant Relief Operator position that was not previously included in Article 12, Section 1 - Wage Grid portion of the CBA; and

WHEREAS, the parties agree that the new position of Water Plant Relief Operator is within the Brainerd Public Utilities bargaining unit, but the terms and conditions of employment for that position are not currently included within the CBA; and

WHEREAS, the City and Union wish to address the terms and conditions of employment for the Water Plant Relief Operator position by mutual agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. The position of Water Plant Relief Operator shall be included as a position within the Brainerd Public Utilities bargaining unit represented by the Union, as defined in the CBA, effective as of the date of this MOA. The City reserves the right to modify the duties of this position and discontinue this position at any time. The City further reserves all other managerial rights, including, but not necessarily limited to, those identified in Article 4 – Employer/Employee Relations, Section 1 of the CBA.
2. The Water Plant Relief Operator shall be compensated in accordance with the following wage grid, which shall be incorporated into Article 12 – Wages, Section 1, of the CBA:

	Water Plant Relief Operator							
	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
1/1/2022	29.16	30.60	32.07	33.53	34.99	36.44	37.90	39.36
1/1/2023	29.88	31.37	32.87	34.36	35.86	37.35	38.84	40.34

3. This MOA will be in effect until the successor CBA has been ratified by the Union and the City. It is the parties' intent to incorporate the terms of this MOA into the successor CBA between the parties.
4. The parties agree that the Water Plant Relief Operator will, in all other respects, be governed by the CBA, unless otherwise stated in this MOA.
5. The City and the Union agree that this MOA will not result in the payment of back pay to any employee.

6. The City and the Union acknowledge that this MOA shall not be deemed to constitute a precedent or create a past practice which would be applicable to any other member of the bargaining unit or classification identified in the CBA or be admissible in any arbitration proceeding or other proceeding involving a dispute between the parties as evidence of a precedent or past practice. This MOA may not be used as evidence—whether in negotiations, arbitration, or other proceeding, other than for purposes of enforcing this MOA—or otherwise be used in any manner to interpret the CBA, or to seek similar benefits for any City employee(s) other than the employee(s) hired for the Water Plant Relief Operator, either through arbitration, negotiation, or other means.
7. The City and the Union agree that this MOA constitutes the entire agreement between the parties with respect to the Water Plant Relief Operator position. No party has relied upon any oral statements or promises that are not set forth in this document. The terms of this MOA are contractual and supersede any and all prior agreements between the Parties relating to the subject matter of this MOA. No waiver or modification of any provision of this MOA is valid unless it is in writing and signed by all parties.
8. This MOA shall be construed to have been drafted equally by the parties.

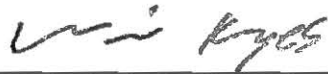
By signing below, each party specifically acknowledges that it has read this Memorandum of Agreement and that it understands and agrees it is legally bound by all terms of the Memorandum of Agreement.

IN WITNESS whereof the parties have entered into this MOA on the dates shown below.

FOR THE CITY OF BRAINERD

FOR INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS, LOCAL
NO. 31

Jennifer Bergman, City Administrator



Will Keyes, Business Manager

Date

6-28-22

Date



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Approve the Hiring of Jessie Dehn as City Engineer/Public Works Director

☐ 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 Eng/PW Director Work Group	Department: Human Resources
Presenter (Name & Title): Kris Schubert, HR Director	Estimated Time Needed: 2 minutes
Summary of Issue: The City Council accepted City Engineer/Public Works Director Paul Sandy's resignation at its April 18, 2022 meeting. The Council also established a Work Group at that meeting to oversee the hiring process to backfill Mr. Sandy's position. Four applications were received with all four individuals invited to attend an interview. Two candidates withdrew when offered an interview and the remaining two candidates went through the interview process on June 22nd. On June 24th, the City Engineer/Public Works Director Work Group met to discuss and finalize their decision. As a result of the interview/hiring process, the City Engineer/Public Works Director Work Group is recommending to hire Jessie Dehn as the City Engineer/Public Works Director with a tentative start date of August 1, 2022.	
Alternatives, Options, Effects on Others/Comments: The Work Group felt that offering a starting wage at Step 2 (\$48.40) was acceptable. At one year of employment, he would be eligible to move to the next full step subject to meeting performance expectations. Special thanks to Council members Mike O'Day and Gabe Johnson as well as Kevin Yaeger from the Park Board for serving on the City Engineer/Public Works Director Work Group.	
Recommended Action/Motion: Motion to authorize the hiring of Jessie Dehn as our City Engineer/Public Works Director starting at Step 2 of the Wage Grid at \$48.40 per hour tentatively effective August 1, 2022.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☒ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ <u>unknown</u> <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i> The City Engineer/Public Works Director position is included in the 2022 budget.	



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Consider Approval of the Revised Employee Policy Manual

☐ 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: Kris Schubert & Jennifer Bergman	Department: Human Resources/Admin.
Presenter (Name & Title): Kris Schubert & Jennifer Bergman	Estimated Time Needed: 10 minutes
Summary of Issue: See Attachment.	
Alternatives, Options, Effects on Others/Comments: See Attachment.	
Recommended Action/Motion: See Attachment.	
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>	

TO: Mayor and Council

FROM: HR Director Kris Schubert and
City Administrator Jennifer Bergman

DATE: June 30, 2022

RE: Revised Employee Policy Manual



Background:

- The current Employee Policy Manual (EPM) was last updated in September 2019. Staff decided to update the EPM in 2021 due to law changes and the Department Heads felt they didn't have input into the 2019 version.
- In the summer of 2021, the Department Heads held multiple meetings going over the entire EPM with several recommended changes including incorporating some template language from the LMC regarding social media, weapons, etc.
- While Staff was revising the EPM with the Department Head recommended changes, the Charter Commission began to meet to consider Charter changes for the oversight of Parks and BPU Department employees.
- Staff put revising the EPM on hold until the Charter changes were finalized. That delay included time for the Charter Commission recommendations, the Ordinance adoption process by the City Council and the 90-waiting period for the Charter changes to go into effect.
- Staff reviewed the EPM to implement the Charter changes specifically now that the City Council oversees BPU employees including all hiring, termination and disciplinary matters.
- Since the BPU Commission will continue to present a budget to the City Council for approval, Staff felt the Commission should still be responsible for items that are included in the budget such as approval of training when included in the adopted budget.
- Other items such as approval of leaves of absences and overall employment issues have been modified to reflect Council oversight for BPU employees.
- We moved a couple of sections around to try to improve the overall flow of the document i.e. lumping the payroll type of items together.

Joint City Council/BPU Commission Meeting on June 27th:

The City Council and BPU Commission met in a Joint Meeting on June 27, 2022, to review the draft EPM. The goal of that meeting was to ensure that the City Council, BPU Commission and staff are all on the same page regarding oversight of BPU employees as addressed in the EPM and to provide general direction to staff on the following items:

1. Salary Administration Plan Section: One of the concepts incorporated into the revised EPM was that promoted or reclassified employees receive at least a 3% minimum wage adjustment for promotions/reclassifications. This was discussed at the March 2021 Wage Grid presentation as a possible remedy to alleviate employee initial step placement appeals. No issues were noted with this suggestion.
2. BPU Department Head Performance Reviews: With the recent Charter change, we recommended that the City Administrator conduct the BPU Department Head performance reviews. This follows the City Engineer/Public Works Director's performance review process whereas the City Administrator conducts the City Engineer/Public Works Director's review even though the position reports to the Park Board. It was noted that the City Administrator can and should request feedback from the BPU Commission when completing the BPU Department Head reviews.

There was quite a bit of discussion about this topic. HR Director Schubert noted this change is important for consistency purposes for:

- A. Administering employment law practices for all Department Heads to alleviate City liability concerns if Department Heads are treated differently.
- B. It is helpful for the City Administrator to review all Department Heads for consistent performance review ratings with our performance-based pay philosophy.
- C. If there would be an employment issue with a BPU Department Head, it is easier for the City Administrator to address the issue and provide follow up versus the BPU Commission trying to oversee that process. Part of the rationale for this issue is the BPU Commission must follow the Open Meeting Law considerations which can be cumbersome for employment issues. This area could be another City liability concern.

It was asked who will be in charge of hiring a BPU Department Head. HR Director Schubert noted that the City recently hired two Department Heads and the process where the Council established a Work Group worked well. HR Director Schubert suggested that a BPU Commission representative could serve on the Work Group like Kevin Yeager did representing the Park Board for the City Engineer/Public Works Director hiring process.

It was suggested to include in the EPM that when hiring a BPU Department Head, that the City Council form a Work Group to oversee the hiring process and that a representative from the BPU Commission serve on said Work Group. That suggestion has been implemented into the Appointments and Promotion Section. Also attached is a draft Performance Feedback Form for the BPU Commission so its members can provide their comments to the City Administrator for BPU Department Head's performance reviews. The review form includes overall job performance including how the BPU Department Head meets the City's core values. This form will also be shared with the Park Board for the City Engineer/Public Works Director position as well.

3. Vacation: The initial vacation accrual was changed from 6.66 to 6.67 hours per month. There were some comments about the inappropriateness of 6.66. We also clarified that vacation is paid out when someone leaves in good standing.
4. Smoking/Tobacco Use Policy: The Department Heads recommended allowing employees to use chewing tobacco while in city buildings or vehicles. Please note chewing tobacco is NOT included in the MN Clear Air Act.
5. Employee Reimbursements: These changes were recommended by the City and BPU Finance Departments.
6. Work from Home – We currently do not have a Work from Home provision in the EPM; however, applicants are inquiring about this and the City Administrator recently received a request to allow two employees to switch being in the office and the other be allowed to work from home. Staff requested Council input if this is something that should be considered. It was noted that the private sector is moving towards this model and that it should be incorporated into our EPM.

We did not have time to include a Work from Home Policy in the current version; however, did create/reserved a Section in the EPM for Telecommuting/Remote Work. Staff expects to present a Work from Home Policy for Council consideration in August and it will be incorporated into the final EPM document after that section is approved. Staff will not be asked to "acknowledge receipt" of the new EPM until after the Work From Home/ Telecommuting/Remote Work Section is included.

BPU Commission Motions on June 28th:

Following the Joint meeting, the BPU Commission held its monthly meeting on June 28th and made the following motions:

1st motion: Recommendation to City Council to postpone/delay any action items of the policy changes to allow further discussion.

Motion by Matten and seconded by Angland. There was a unanimous vote in favor of the motion. Motion carried.

2nd motion: Recommendation to have City Administrator to co-conduct BPU Department Heads employee reviews along with the BPU Commission.

Motion by Matten and seconded by Wussow. There was a unanimous vote in favor of the motion. Motion carried.

3rd motion: Recommendation for BPU and City Council to form a sub-committee to attend for reviewing all hiring and firing of personnel for BPU.

Motion by Matten and seconded by Angland. There was a unanimous vote in favor of the motion. Motion carried.

Notes:

Please note that:

- We have included a red-lined version to help show the recommended changes made at this time.
- We also included “comments” in the redlined version to help explain the rationale for some the changes.
- Our Employment Law Attorney Christian Shafer has reviewed all language changes in the current version.

Recommended Action:

While staff has spent months reviewing and redlining the attached Employee Policy Manual, we recognize that Council has only seen this draft twice and may want some time to continue to review the recommended changes. The changes in this version reflect the discussion that was held at the joint meeting. Staff is proposing the following options:

- 1) Adopt the Employee Policy Manual as presented noting that the Telecommuting/ Remote Work Section will be submitted separately in August for consideration.
- 2) Postpone this item to the first meeting in August which will allow staff additional time to draft and include the Telecommuting/Remote Work Section and will also give the Council more time to review the recommended changes.

Enc.: Employee Policy Manual (Clean Version)
Employee Policy Manual (Redlined Version)
Sample BPU Department Head Review Form



July 5, 2022

Employee Policy Manual

City of Brainerd

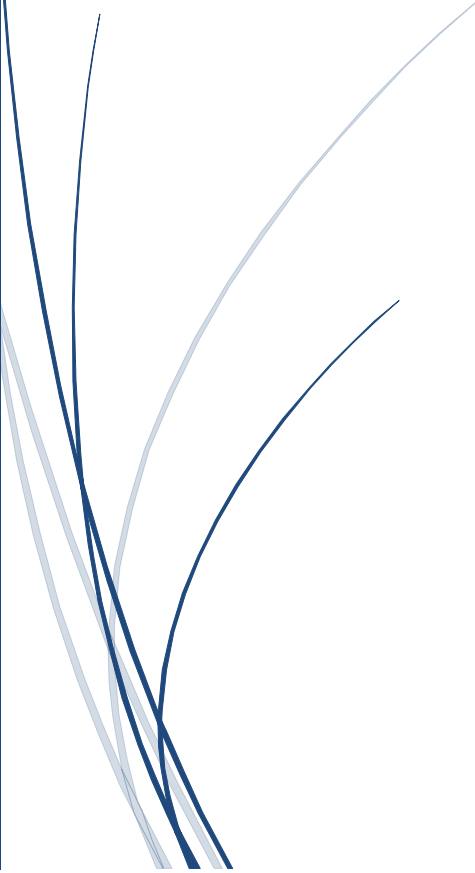


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ARTICLE 1. PURPOSE

Section 1.01 Policy Statement

The City Council of the City of Brainerd ("City") deems it advisable to establish a policy governing the relationship between the employees and the City, and to provide procedures for its administration. In the formation of this policy, the Council recognized that the City is a political Section of the State of Minnesota and the Employee Policy Manual must conform to applicable law. Within this framework, the Council can establish governing principles upon which a progressive, comprehensive and efficient program of employee relations may be based.

Section 1.02 General

The purpose of this manual is to help you to better understand the policies and procedures which affect and guide your employment with the City of Brainerd. These policies are not and cannot be construed as contract terms, a guarantee of continued employment, or terms and conditions of employment. This manual replaces, revokes, and supersedes any previous personnel policies, interpretations, and practices. This manual is only valid until amended or replaced by the City Council.

This manual is not intended to cover all circumstances that might arise. Employees should become thoroughly familiar with the provisions of this manual within ten (10) business days of their receipt of this manual. Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is "at-will" employment, meaning that such employment may be terminated by the employee or the City at any time, for any legal reason or no reason at all.

Section 1.03 Amendment to Policy

The City reserves the right to modify, revoke, suspend, or change the language of this personnel policy handbook or any individual policy or policies, in whole or in part, at any time, with or without notice, at the City Council's sole discretion.

Section 1.04 Equal Opportunity and Affirmative Action

The City of Brainerd is an Equal Opportunity Employer. The City will comply with all applicable laws governing equal employment opportunity and affirmative action. This policy extends to all applicants and employees and to all aspects of the employment relationship including, but not limited to, recruiting, hiring, promotion, transfer, and compensation.

Specifically, the City of Brainerd will provide equal employment and advancement opportunity on the basis of merit within the context of its unique business environment and without regard to race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

The Human Resource Director is the designated Equal Employment Opportunity/Affirmative Action Coordinator who has been charged with ensuring that the City of Brainerd's EEO/AA policies are carried out.

If any employee, or applicant for employment, believes he/she has been discriminated against, please contact the Human Resource Director at 501 Laurel Street, Brainerd, MN 56401 or call (218) 828-2307.

ARTICLE 2. SCOPE OF POLICY

Section 2.01 Personnel Covered

This manual generally applies to all City employees, including probationary employees, appointed officials, and elected officials, except to the extent that this manual conflicts with applicable law or collective bargaining agreements. Certain provisions of this manual may be inapplicable to the following individuals:

- A. All elected officials;
- B. Members of City boards, commissions and committees;
- C. Volunteer personnel and emergency employees;
- D. Consultants and/or contracted personnel.

Section 2.02 Employees Covered by Labor Contracts

All provisions of this policy apply to employees covered by collective bargaining agreements, except when such provisions are in conflict with collective bargaining agreement provisions, in which case, such provisions of the collective bargaining agreement shall control.

ARTICLE 3. INTERPRETATION

The purpose of this manual is to provide a basis for the safe, orderly, and disciplined employment environment. This policy is intended to promote knowledge of what is expected of personnel generally, which should result in a greater degree of self-assurance in all positions. In relationships between positions, it should be each City employee's individual aim to build mutual respect and confidence which is essential to local government service.

To the extent that any federal, state, or local law, ordinance, rule, or regulation conflicts with any policy or policies herein, the applicable law, ordinance, rule, or regulation shall control. To the extent that any federal, state, or local law, ordinance, rule, or regulation imposes stricter requirements on an area governed by these policies, the applicable law, ordinance, rule, or regulation shall control.

Additional information or clarification as to each ARTICLE of this personnel policy may be obtained from your supervisor, department head or the Human Resources Department. This manual is only a start in our communication network because the City maintains a continuous process of communicating policies and benefits to all staff members. The text of this manual, however, takes precedence over and controls any inconsistent communication from any City employee or elected official.

This manual summarizes the various policies and benefits currently provided by the City. Nothing contained in this personnel policy or in any other City document, and nothing said or done by a City employee, is, or can be construed as an employment contract between the City and an employee, as a guarantee of continued employment, or terms and conditions of employment. The City and the employee both have the right to terminate the employment relationship at any time, for any legal reason or no reason at all. Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is “at-will” employment.

ARTICLE 4. IMPLEMENTATION OF THIS POLICY

It is the responsibility of all Department Heads and Supervisors to ensure implementation of this policy. Failure of any employee to perform in a manner consistent with this policy, State or federal Law will be grounds for discipline, up to and including immediate termination.

The City Administrator is hereby given authority for the administration of the policies contained in this manual, as directed by the City Council.

ARTICLE 5. GENERAL INFORMATION

Section 5.01 Data Practices Advisory

In accordance with the Minnesota Government Data Practices Act (“MGDPA”), the City is required to inform employees of their rights as they pertain to any private information that the City collects from them. During the course of City employment, an employee will likely be asked to provide information which is classified by state law as either private or confidential. Private data is information which generally cannot be given to the public but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data. Much of the data the City

has about individual employees, however, is classified as public according to Minnesota Statutes, ARTICLE 13.43, Sections 2 and 3 (as amended). Consistent with the relevant provisions of the MGDPA, all public data is available for inspection and copying by members of the public, with or without the employee's consent.

Information about employees requested by the City may be used for the following purposes: (1) to process payroll, including accounting for wages and fringe benefits and to justify any reimbursed expenses; (2) enroll in benefit programs and pension plans; (3) evaluate the employee's job performance, eligibility and abilities; (4) distinguish the employee from other applicants and employees and identify the employee in the correct personnel file; (5) determine the employee's eligibility for employment or promotion, and make employment decisions about the employee's performance; (6) contact the employee or other significant persons in case of an emergency; (7) compile equal opportunity and any affirmative action reports required by applicable law; (8) make decisions regarding the employee's eligibility for sick leave, family and medical leave, parenting leave, and other available leave; (9) make decisions regarding the employee's eligibility for workplace accommodations, including accommodations for disabilities; (10) comply with workers compensation requirements in the event of an injury; and (11) provide information during workplace investigations. Such information may also be used and disclosed for other purposes consistent with applicable law. The information provided by the employee may be used in performance evaluations, determinations regarding merit pay, applications for different employment positions, and other matters which involve a review of the employee's personnel file and past performance.

Unless the employee is told otherwise, the employee is required to provide this information. If the employee refuses to supply the information, the employee may face disciplinary action. Any information which the employee is required to provide cannot be used against the employee in a criminal proceeding. Even if the employee is not required to provide information, it is generally to the employee's best interest to provide it. Without the requested information, the City may not be able to determine the employee's eligibility for employment opportunities, compute wages, or grant the employee other benefits. The employee's refusal to provide information during an employment investigation may also necessitate that the investigation be completed without his or her input.

Federal law permits government agencies to require individuals to provide their social security number for the administration of any tax. Please be aware that when an employee is asked to give his or her social security number on revenue forms, this collection is mandated by law. This information will be shared with the Minnesota Department of Revenue, the Internal Revenue Services, and security tax programs. In most other cases, the disclosure of an employee's social security number is voluntary.

Any information an employee is asked to provide may be shared with individuals within the City whose job duties reasonably require access, as well as individuals outside of the

City whose duties require access, such as insurance vendors, consultants, attorneys, and retirement plan employees. Information may also be shared with other agencies authorized by law to receive specific data.

If litigation arises, some or all information may be provided in documents filed with the court which are available to any member of the public. If it is reasonably necessary to discuss the information at an open City Council meeting, some or all data may be available to members of the public. To the extent that some or all of the information is part of the basis for a final decision on disciplinary action, that information may become public, as provided in Minnesota Statutes, ARTICLE 13.43 (as amended).

Section 5.02 Conduct as a City Employee

A. Scope of Policy

It is the policy of the City of Brainerd to maintain a respectful work and public service environment free from violence, discrimination, and offensive or degrading remarks or conduct. Preserving a respectful environment in which to work is the shared responsibility of both management and employees. Inappropriate conduct or communication can interfere with an individual's employment or use of public services, or create an intimidating, hostile or offensive work environment. Any employee found to have acted in violation of this policy shall be subject to appropriate disciplinary action, which may include dismissal from employment.

This policy governs the conduct of all City employees, including; union, non-union, supervisory, non-supervisory, managerial, full-time, part-time and temporary employees; and members of City boards and commissions. This policy is also applicable to City elected officials.

In addition, employees are also expected to comply with ARTICLE 26 of this Manual that addresses Harassment.

B. Definitions of Prohibited Behaviors

Violent behavior includes the use or threat of physical force, harassment, or intimidation, or abuse of power or authority when the impact is to control others by causing pain, fear or hurt.

Discriminatory behavior includes inappropriate remarks about or conduct related to an individual's race, color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation, status with regard to public assistance, or any other characteristic protected by state or federal law, including behavior specifically prohibited by ARTICLE 26 of these policies.

Offensive behavior may include, but is not limited to, such work-related actions as rudeness, exclusionary behavior, creating or displaying graphics depicting co-workers or customers inappropriately, angry outbursts, inappropriate joking, vulgar obscenities, name calling, disrespectful language, or the intentional filing of an unfounded complaint under this policy.

C. Expected Conduct of City Employees

1. City Employee Conduct in General

Employees of the City shall conduct themselves as professional representatives of the City at all times while on duty or on the employer's premises, and that employees will represent the City in such a manner as to reflect most favorably on the City. Conduct unbecoming a City employee shall include any conduct that tends to bring the City into disrepute or reflects discredit on the person as an employee of the City, or that which tends to impair the functioning of an employee, a department, or the City.

Your conduct as a City employee is an extremely important part of your job. You are a representative of our City, and as such, the way you perform your job and your neat and clean appearance reflects upon our entire organization. Your willingness to assist people, to courteously and accurately respond to their questions or complaints, and to refer them to the proper source when you are unable to solve their problems, are all important facets of your position with the City and impact upon each member of our staff.

2. Conduct in Dealing with the Public

a. Expected Public Interaction.

While representing the City, employees shall be professional and courteous to all members of the public and City customers. They shall be tactful in the performance of their duties, control their tempers and exercise the utmost patience and discretion. They shall not engage in argumentative discussions, even in the face of extreme provocation. They shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law, or other personal characteristics.

b. Interaction with an Abusive Customer.

In the event a member of the public or City customer becomes abusive on the phone or in person, employees should refrain from escalating the situation and if possible, employ

tactics to defuse the situation, e.g. lower the voice, ask the person to sit down. If the situation doesn't improve, the employee can refer the person to a supervisor or request that a police officer be called to the scene. Employees are not required to continue telephone or in-person conversations in which the caller uses profanity or threats. In those situations, the employee should refer the call to a supervisor or inform the caller, as courteously as possible, that the employee is hanging up and will talk with the caller after the caller has calmed down.

c. Media Requests

All employees have a responsibility to help communicate accurate and timely information to the public in a professional manner. Requests for private data must be directed to the designated official authority. Requests for information outside of the scope of an individual's job duties must be routed to the appropriate department head.

Any employee who identifies a mistake in reporting should bring the error to the City Administrator. Regardless of whether the communication is in the employee's official City role or in a personal capacity, employees must comply with all laws related to data privacy, trademark, copyright, software use, and other laws governing the employee's communication.

Except for routine events and basic information readily available to the public, all requests for interviews or information from the media must be routed through the City Administrator. No employee is authorized to speak on behalf of the City without prior authorization from the City Administrator or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites.

When responding to media requests, employees should follow these steps:

1. If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the City Administrator of the request.
2. If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a "routine" question, forward the request to the City Administrator. An appropriate response may be, "I'm sorry, I don't have the full information regarding that issue. Let me take some basic information and submit your request to the appropriate person, who will get back to you as soon as he/she can." Then ask the media representative's name, questions, deadline, and contact information.

All news releases concerning City personnel will be the responsibility of the City Administrator, or designee.

When/if the City Administrator authorizes a staff person to communicate on behalf of the City in interviews, publications, news releases, on social media sites, and related communications, employees must:

- Identify themselves as representing the City. Account names on social media sites must be clearly connected to the City and approved by the City Administrator.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: For example, the employee could state that, “The City finished street cleaning on 16 streets in the northwest corner of the City this past week” instead of “The City is doing a great job with street cleaning this year!” Corrections must be issued when needed.
- Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following on the City’s Facebook page: “My family visited Gregory Park this weekend and really enjoyed the new band shelter.” Employees who have been approved to use social media sites on behalf of the City should seek assistance from the City Administrator on this topic.
- Notify the City Administrator if they will be using their personal technology (cell phones, home computer, cameras, etc.) for City business. Employees should be aware that data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

d. Personal Communications and Use of Social Media

It is important for employees to remember that the personal communications of employees may reflect on the City, especially if employees are commenting on City business or commenting on issues that implicate their City employment. As City representatives, employees share in the responsibility of earning and preserving the public’s trust in the City. An employee’s own personal communications, such as on social media, can have a significant impact on the public’s belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

Nonpersonal communications (performed within one’s job duties) to members of the public must be professional at all times. The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the City's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
- Remember what you write or post cannot easily be undone. It may also be spread to larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible online, even if it is done after hours, from home and on home computers.
- While representing the City, all employees are expected to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the City. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race, national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
- If you publish something related to city business and there is liable to be confusion whether you are speaking on behalf of the City, it would be best to identify yourself and use a disclaimer such as, "These are my own opinions and do not represent those of the City of Brainerd."
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector is not permitted to use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours for personal purposes even though he or she may have a key; a clerk, during work hours at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the City (e.g., (Brainerd Cop)).

3. Conduct Between Employees

- a. Employees shall cooperate with and be courteous to co-workers at all levels. While everyone is entitled to their feelings, they are not entitled to act on their feelings inappropriately in the workplace. Employees shall

control their tempers and refrain from behaviors that are hostile, offensive, intimidating, degrading, or exploitative. Inappropriate displays include, but are not limited to: slamming doors, pounding tables, kicking furniture, unwanted physical contact of any nature, making threats, berating or belittling others, speaking in raised voices, using coarse, violent or profane language or gestures, refusing to speak or respond when spoken to, and refusing to provide assistance when requested.

Employees shall treat each other with respect. They shall refrain from making remarks about or using nicknames for other employees that are disparaging or based on a personal characteristic; producing cartoons or other graphics displaying other employees in an unfavorable light; communicating threatening or disparaging remarks via any medium (voice, e-mail, notes, etc.); engaging in unwanted horseplay or practical jokes; failing to relay written, verbal or telephone messages; unwanted, unwarranted physical contact of any nature, including “roughhousing” such as punching in the arm, pinching, arm twisting, etc., and other, similar unwanted conduct.

b. Workplace Violence

The City is committed to creating and maintaining a workplace that is free from violence. Employees are strictly prohibited from engaging in any threatening or violent behavior while on City premises, while operating vehicles for work related reasons, while engaged in City business off premises, while at any City sponsored activity, or while otherwise representing the City.

Specific examples of conduct that may be considered threats or acts of violence under this policy include, but are not limited to, the following:

- Threatening physical or aggressive conduct directed toward another individual.
- Threatening an individual or his/ her family, friends, associates, or property with physical harm.
- The intentional destruction or threat of destruction of City property or another’s property.
- Harassing or threatening phone calls, letters, or e-mails.
- Surveillance or stalking.
- Veiled threats of physical harm or similar intimidation.

Employees have a responsibility to help keep the municipal buildings safe and free of violence. Employees should inform their supervisor of any workplace situations that violate this policy, even if the threat is presented as “only a joke”. Supervisors are responsible for taking immediate steps to avoid workplace violence from occurring and subsequently report such information to City Administration. Any employee who engages in threatening behavior or acts of violence will be subject to disciplinary action up to and including termination.

For purposes of this policy, the term “workplace violence” does not include actions by law enforcement officers taken in the course of their employment with the City and consistent with applicable law and City policy regarding use of force and law enforcement activities.

D. Reporting Inappropriate Workplace Behavior

Any employee who feels he or she is being subjected to behaviors in violation of this Policy and any employee who witnesses or becomes aware of such conduct, should take the following steps:

1. If possible, politely but firmly tell the person who is behaving inappropriately that you are uncomfortable with or offended by the behavior and ask them to stop.
2. Document in writing for personal reference that describes the inappropriate behavior, the date the inappropriate behavior occurred, how it made you feel, what you did, how the offending party responded, and the names and titles of any witnesses.
3. If confronting the offending party is not practical or possible, or if the person refuses to discontinue the inappropriate behavior, the employee should, adhering to the chain of command, contact someone on the list below verbally or in writing:
 - a. The employee’s immediate supervisor
 - b. The employee’s department head
 - c. The Human Resource Director
 - d. The City Administrator

Reports of conduct by the Human Resource Director or the City Administrator may be made to the Mayor or the Personnel Committee of the City Council.

When making a report, the complaining party should be prepared to provide the following information:

1. The complainant’s name, department and position title.
2. The name, department, and position title of the offending party, if known.
3. The specific facts of the allegedly inappropriate behavior, how long it has allegedly gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) that was supposedly taken against the employee who is filing the complaint.
4. Names of witnesses, if any, to the allegedly inappropriate behavior.
5. Whether the complainant has previously reported the allegedly inappropriate behavior and, if so, to whom.

E. Investigating Complaints of Inappropriate Conduct

The Human Resource Director, the City Administrator, or designee of the City Administrator or Human Resources Director, shall investigate complaints of inappropriate workplace conduct.

The determination of whether inappropriate workplace conduct has occurred will be made on a case-by-case basis. Disciplinary action will also be determined on a case-by-case basis in accordance with these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Employees who are found to have filed bad faith complaints of inappropriate workplace conduct may be subject to disciplinary action as described in the preceding paragraph.

F. Consequences of Engaging in Inappropriate Workplace Conduct

Employees who are found to engage in inappropriate workplace conduct may be subject to disciplinary action, up to and including immediate termination, subject only to applicable law, the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Supervisors are required to deal swiftly and vigorously with employees who treat others disrespectfully. Any supervisor who condones or allows inappropriate workplace conduct or fails or refuses to respond appropriately to complaints of inappropriate workplace conduct, may be subject to disciplinary action as described in the preceding paragraph, whether or not the supervisor actually engaged in inappropriate workplace conduct.

G. Retaliation for Complaints of Inappropriate Workplace Conduct

All employees are prohibited from retaliating or threatening to retaliate against anyone who complains of inappropriate workplace conduct. Any employee found to engage in retaliatory actions is subject to discipline, up to and including immediate termination, subject only to applicable law, the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

H. Relationship of Code of Conduct to Harassment Policy.

This policy supplements and does not replace the City's policies prohibiting discrimination, harassment in the workplace, and workplace violence.

Section 5.03 Gifts and Endorsements

No employee shall directly or indirectly solicit, receive, or agree to receive any compensation, "tip," gift, reward, gratuity, payment of expense, or promise of future

employment or other future benefit from any source except the City, for any matter or proceeding connected with or related to the duties of the employee. Notwithstanding the above rule, employees may only accept gifts that follow the State Statute guidelines for gifts.

Employees and elected officials qualifying as “local officials” pursuant to M.S. 471.895 (as amended) must comply with the terms of that statute.

Section 5.04 Solicitations

The City does not allow outside solicitations to take place on City time or property. If you are asked to purchase goods, contribute funds, etc. while on City premises, please notify your supervisor immediately.

Section 5.05 Conflicts of Interest

No City employee shall engage in any act which is in conflict, or creates an appearance of impropriety or conflict, with the performance of official duties. When an employee believes the potential for a conflict of interest exists, it is the employee’s responsibility to avoid the situation. Employees must notify their supervisor if a conflict of interest or perception of a conflict-of-interest situation exists or may exist. Employees who knowingly fail to avoid or disclose a potential, perceived or actual conflict of interest situation are subject to disciplinary action in addition to any criminal penalty that may be involved. An employee shall be deemed to have a conflict if the employee:

- A. Has any financial interest in any sale to the City of any goods or services;
- B. Engages in conduct that violates Section 5.03 (Gifts and Endorsements) of this ARTICLE;
- C. Participates in his/her capacity as a City employee in the issuing of a purchase order or contract in which he/she has a private financial interest, direct or indirect, or performs in regard to such contract some function requiring the exercise of discretion on behalf of the City; or
- D. Engages in, accepts employment from, or renders services for private interests for any compensation or consideration having monetary value when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above.

An employee should not make a unilateral decision if there is any doubt about his/her private employment. The City Administrator or Human Resource Director should be consulted.

No employee shall, directly or indirectly, give or receive, or agree to give or receive any compensation, gift, reward, commission or gratuity from any source except the City for any matter directly connected with or related to his official services as such employee with this City except as authorized in ARTICLE B above.

- E. Discloses or uses without authorization from the City Administrator private, confidential, or other non-public information to further the employee's private interest, or accepts outside employment or involvement in a business activity that will require the employee to disclose or use such information.
- F. Has a financial interest or personal interest in any legislation or decision coming before the City Council and participates in discussion with or gives an official opinion to the City Council unless the employee discloses on the record of the Council the nature and extent of such interest.

Section 5.06 Outside Employment

Employees may not engage in outside employment which might in any way hinder their objective and impartial performance of their public duties, be incompatible with their City employment, or impair their efficiency on the job. Individuals employed by the City of Brainerd must regard the City as their primary employment responsibility. All outside employment is to be reported to the employee's Department Head. If a potential conflict exists based on this policy or any other consideration, the Department Head will consult with the City Administrator and Finance Director. Any city employee accepting employment in an outside position that is determined by the City Administrator to be in conflict with the employee's city job will be required to resign from the outside employment or may be subject to discipline up to and including termination.

Outside work shall be regarded as secondary to regular City employment and shall not interfere with the availability of employees for regularly scheduled work, emergency, or on-call duties. The City's Workers Compensation insurance does not cover any individual injured in the course of outside employment.

Section 5.07 Incompatible Activities

As a City employee, you have a responsibility to uphold a high standard of honesty and integrity.

You may not engage in any activities which are inconsistent, incompatible or in conflict with the duties of your position. These incompatible activities include activities such as using your position or City resources for personal gain or advantage, accepting money or gifts for performing your duties as a City employee, or engaging in activities which impair

your attendance or efficiency in the performance of your duties. If an employee has any question as to whether an activity is “incompatible” with his or her work for the City, the employee must ask his or her department head or, if the employee is a department head, the City Administrator for clarification.

Section 5.08 Use of City Vehicles, Facilities and Equipment

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for: unauthorized personal convenience, for profit, for private use, or as part of secondary employment, or any other use not in the interest of the City, except as provided by law. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

Employees are responsible for appropriate use of time, telephones, cellular telephones, computers, printers, paper, pens, stationery, facsimile machines, and pages. They are expected to adhere to the highest ethical standards when conducting City business and to follow these policies.

Management personnel are responsible for ensuring the appropriate use of all City property, including e-mail and internet access through training, supervising, coaching and taking disciplinary action, when necessary.

Employees who are required to take a City vehicle or equipment home due to the nature of their work for the City, shall do so only with the approval of the City Administrator and in accordance with IRS reporting requirements, and applicable law. City vehicles shall be allowed to leave the City limits (or service area for Fire Department, Police, and BPU vehicles) only while on official City business.

City employees shall have no expectation of privacy in any property or equipment of the City, including, but not limited to, offices, cubicles, desks, files, vehicles, filing cabinets, voice mail, text messages on City paid cellular telephones, PDAs, computers, laptops, mass storage devices, e-mails, electronic media or devices of any kind, or any other type of equipment, property, or space provided by the City. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed, monitored, or searched by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion.

Staff members shall operate City vehicles in a careful and prudent manner and shall obey all state and federal laws and all City orders pertaining to such operation. Staff members shall set a proper example for others when operating City vehicles.

This policy applies to all employees who drive a vehicle on city business at least once per month, whether driving a city-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently but whose ability to drive is essential to their job due to the emergency nature of the job. The city expects all employees who are required to drive as part of their job to drive safely and legally while on city business and to maintain a good driving record.

To the extent allowed by law, the HR Department will examine driving records once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify their Department Head and the HR Director or their designee on the first workday after any temporary, pending or permanent action is taken on their license, and in any event before operating a city vehicle, and to keep their Department Head and HR Director informed of any changes thereafter. The City will determine appropriate action on a case-by-case basis.

The City Council approved the following policy regarding vehicle use. The intent of this policy is to ensure appropriate use of City vehicles and rolling stock by City employees while working on City business or as a representative of the City and to ensure a clear understanding thereof.

- A. To the extent feasible, City employees should use a City-owned vehicle when traveling for City work, including conferences, seminars, and meetings that the employee is attending in his or her role as a City employee.
- B. Conferences, schools, seminars and meetings: For purposes of this policy it is intended that training opportunities during the regular work shift within a 90-mile distance of the work location is considered an acceptable work-related activity in as much as the vehicle will be returned to the work site either during or shortly after the completion of the shift.
- C. Out-of-town and overnight conferences and schools: To the extent feasible, employees should use an available City-owned vehicle when traveling to overnight conferences, schools, and events. For travel which has a duration of more than one workday in length, the employee may utilize a non-fleet vehicle, if a City-owned vehicle is not available, the use for which will be compensated at the approved rate. Alternatively, upon prior approval of the City Administrator or designee, the employee can utilize an available vehicle if not needed by other staff during the applicable timeframe.
- D. Lunch hours and authorized breaks: For purposes of this policy when an employee is scheduled to work at a site other than their normal reporting location, and for Police Officers on duty, use of a City vehicle for travel within one mile of the City

limits for the purpose of lunch and other authorized breaks shall not be considered personal use.

- E. Overnight use: It is the intent of this policy that all municipal vehicles will have returned to their designated work location by the end of the work shift unless prior authorization has been received from the employee's Department Head.
- F. Personal use: Personal use of City vehicles by City employees or elected officials is prohibited without the express written consent of the City Administrator.

Section 5.09 Possession and Use of Dangerous Weapons.

All employees, except sworn employees of the Police Department, are prohibited from carrying or possessing firearms and/or dangerous weapons other than firearms while acting in the course and scope of employment for the City. The possession or carrying of a firearm or dangerous weapon by employees other than sworn Police Officers is prohibited while working on City property or while working in any location on behalf of the City. This includes but is not limited to:

1. Driving on City Business;
2. Riding as a passenger in a car or any other type of transit on City business;
3. Working on the City's property, including City Hall or any other City-owned work site;
4. Working off site on behalf of the City;
5. Performing emergency or on-call work after normal business hours and on weekends;
6. Working at private residences and at businesses on behalf of the City;
7. Attending training or conferences on behalf of the City.

Possession or use of a dangerous weapon is prohibited on city property, in City vehicles, or in any personal vehicle, which is being used for City business. This includes employees with valid permits to carry firearms.

For the purposes of this policy, "dangerous weapons are defined to include all legal or illegal firearms, switchblade knives, or any other object that has been modified to serve as a weapon or that has the primary purpose of serving as a weapon.

The following exceptions to the dangerous weapons prohibition are as follows:

Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on city property, to the extent required by Minnesota Statutes, ARTICLE 624.714 (as amended), or other applicable law.

In addition, the City prohibits the discharge of firearms on City property, except as necessary for the performance of duties by sworn Police Department employees. Any employee in violation of this policy will be subject to disciplinary action, up to and including discharge.

This policy is administered and enforced by the Human Resources Department. Anyone with questions or concerns specific to this policy should contact the Human Resource Director.

ARTICLE 6. APPOINTMENTS AND PROMOTION

Section 6.01 Appointment Procedure

It is the intent of the City of Brainerd to recruit and select qualified candidates for available positions, as it deems necessary. The City is committed to recruitment and selection practices that are based on merit. The recruitment and selection processes will be conducted to ensure an open and competitive process. The City Administrator or a designee will oversee the hiring process for positions within the City. Human Resources staff are responsible for managing the recruitment and selection process including, but not limited to, obtaining authorization to hire, evaluating job descriptions, preparing vacancy announcements, scoring applications, conducting interviews, facilitating background checks, scheduling various assessments and medical examinations, scheduling interviews, and making and withdrawing job offers. While the hiring process may be coordinated by staff, the City Council is responsible for the final hiring decision and must approve all hires to city employment.

The selection process will be a cooperative effort between the City Administrator, HR Director and the hiring supervisor, subject to final hiring approval of the City Council. Any, all, or none of the candidates may be interviewed, as determined by the City at its sole discretion.

When hiring for BPU Department Heads, the City Council will establish a Work Group to oversee the hiring process and a representative from the BPU Commission will be included in said Work Group.

The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to final City Council approval. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council approval.

Every appointment to municipal service shall be recommended by the City Administrator or designee to the Personnel and Finance Committee and approved by the City Council. When required by law or by the City Administrator, merit and fitness shall be ascertained

by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

For an existing position that becomes vacant and new positions approved as part of the budget, the City Administrator or designee shall inform the City Council of the vacancy to receive the City Council's authorization to begin recruitment and, when complete, to bring a hiring recommendation to the City Council for authorization to hire. Furthermore, when a position has already received approval from the City Council and an offer is made to a candidate who then declines, the Human Resource Director and the department head may use their judgment in reviewing the list of applicants or re-advertising for the same position.

The City Council may, from time to time, provide staff with hiring perimeters. To the extent that the City Council does so, and if said perimeters are followed, the Council may ratify the hiring of an individual after a conditional job offer has been given and the successful completion of pre-employment screening process has been completed.

Unless otherwise required by law or applicable collective bargaining agreement, in no event shall the hiring or continued employment of any person be considered a contractual relationship between the employee and the City. Further, unless otherwise provided, such relationship shall be defined as employment "at-will," which allows either party to dissolve the relationship at any time, for any legal reason or no reason at all. When required by law or requested by the applicable Department Head, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

Section 6.02 Physical Examination and Background Checks

To the extent authorized or required by law, the City reserves the right to require applicants to complete a pre-employment physical examination by a physician designated by the City as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require employees to complete physical examinations related to their ability to complete the essential functions of their positions. The cost of any such examination shall be paid by the City.

To the extent required or authorized by law, the City reserves the right to require applicants to submit to a background check, including a criminal history background check, as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require internal applicants for promotional positions to submit to a background check, including a criminal history background check, as part of the recruitment and appointment process.

Section 6.03 Promotion from Within

To the extent practical, notice of all new job openings or vacancies shall be posted for at least three (3) working days in an appropriate place. Any employee desiring to apply for such job opening shall do so via the designated application process. If a person other than the Human Resource Director is designated in the job posting, the designated individual shall provide the application to the Human Resource Director within one (1) working day of receipt of the application. The internal recruitment process in no way prohibits the City from seeking and hiring qualified applicants through an external recruitment process. Except as required by the provisions of a collective bargaining agreement, the City reserves the right to recruit external candidates with or without conducting an internal recruitment process and has no obligation to select an internal candidate over an external candidate.

Section 6.04 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 of at least 3%.
- 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. 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.

ARTICLE 7. SALARY ADMINISTRATION PLAN

Non-union supervisory employees and Department Heads shall be compensated in accordance with wage resolutions adopted by the City Council.

New employees will generally start at Step 1. Promoted and/or reclassified employees will generally start at the lowest step that is at least 3% more than the employee received in his or her previous position with the City; further, wage step placement appeals will not be considered from promoted and/or reclassified employees for a higher step placement. The City retains the sole discretion to start an employee at a higher step depending on qualifications and needs of the City. Employees shall have no right under this policy to file a grievance or appeal to the City Council regarding their initial placement on the pay table or initial placement following a promotion or reclassification.

Performance evaluations shall be based on job descriptions and result-oriented performance standards. Performance evaluations are intended to assist the employee in reaching maximum potential, enhance services provided by the City, and provide for periodic, formal review by the employee's supervisor and Department Head. The performance evaluation system shall be conducted in the following way:

- A. It shall be the responsibility of each Department Head to provide periodic written evaluations of subordinate employees, on at least an annual basis. This once a year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.
- B. It shall be the responsibility of the City Administrator to provide periodic written evaluations of Department Heads on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.
- C. It shall be the responsibility of the City Council to provide periodic written evaluations of the City Administrator, on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

The decision to provide a merit (step) increase shall be the determination, at the discretion of the Department Head, City Administrator, or City Council as applicable. Pay steps through step 6 are based on satisfactory performance.

In order to advance to Step 7 on an applicable wage grid approved by the City Council, an employee must be on Step 6 and obtain two “achieves expectations” and one “exceeds expectations” on their annual performance evaluation for their currently-held position in any given three-year cycle beginning January 1, 2019. In order to advance to Step 8, an employee must be on Step 7 and obtain another “exceeds expectations” with two prior “achieves expectations” on their annual performance evaluation for their currently-held position in any given three-year cycle.

Step increases for employees hired before August 1, 2022, will become effective on January 1 of each year following the employee’s performance review. For employees hired, reclassified or promoted on or after August 1, 2022, any step increase will become effective on their position anniversary date. Progression through the pay steps will be accomplished by an annual review of employee performance, as described above.

Denial or delay of a step increment shall be subject to the grievance procedures described in these policies.

ARTICLE 8. PROBATIONARY PERIOD

Section 8.01 Duration and Purpose

Subject to the provisions of an applicable collective bargaining agreement and applicable law, all new, rehired, promoted, or reassigned employees shall serve a twelve (12) month probationary period upon assuming their new positions. This period shall be used to observe the employee's work habits and ability to perform the work that they are required to do. Department Heads shall file with the City Administrator a written summary of the probationary period and include a recommendation for continued employment of the employee.

An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City Administrator, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Section 8.02 Extension

An employee's probationary period may be extended for an additional period of time not to exceed six (6) months upon recommendation from the City Administrator or Department Head and at the sole discretion of the Human Resource Director.

Section 8.03 Termination

The City Council, upon recommendation of the Personnel and Finance Committee, may terminate with or without cause a probationary employee anytime during the probationary period.

Section 8.04 Completion

At the end of the probationary period, the Department Head will recommend that the City Administrator take one (1) of the following actions:

- 1) Extension of Probation;
- 2) Regular Employment; or
- 3) Termination.

If the recommendation is for termination, the City Administrator will take the recommendation to the Personnel and Finance Committee for consideration, before receiving final approval from the City Council.

An employee's completion of the probationary period does not guarantee future employment or create a "for cause" termination standard. All employees, including employees who have successfully completed a probationary period are "at will" employees. Nothing in this personnel policy provides, is intended to provide, or should be construed as providing additional rights to employees who complete the probationary period.

Section 8.05 Vacation and Sick Leave

During a new or rehired employee's probationary period, vacation leave and sick leave shall be earned. Employees may use vacation leave after the first six months of their probationary period, subject to approval by the employee's supervisor. Sick leave may be taken during the probationary period not to exceed the sick leave time earned.

ARTICLE 9. HOURS OF WORK

Section 9.01 Work Schedule

Due to the necessity of providing service twenty-four hours per day, seven days per week, it is a reasonable condition of employment to require that employees work a regular schedule of hours as established by the City. Regular schedules shall not be construed as excluding shift rotation and emergency work schedules based on public necessity as determined by the City.

The following are descriptions of the work schedules for the types of employees utilized by the City of Brainerd.

- A. Subject to the terms of any applicable collective bargaining agreement, regular full-time and probationary full-time employees, included in the annual budget, normally

have a work schedule of forty (40) hours per week, (five (5) days per week, eight (8) hours per day). The City reserves the right to set employees' schedules and hours of work as required to deliver City services.

- B. Regular part-time and probationary part-time employees have a work schedule that is less than forty (40) hours per week. Employees who work less than thirty (30) hours per week shall not be eligible for fringe benefits, except as required by law. Employees who work thirty (30) hours per week or more shall be eligible for the following fringe benefits on a pro-rata basis:

Holidays - As established in ARTICLE 15 of this manual.

Vacation - As established in ARTICLE 16 of this manual.

Sick Leave - As established in ARTICLE 17, Section 17.06 of this manual.

Employees who work thirty (30) hours per week or more shall be eligible to participate in the City's group health insurance, cafeteria plan and life and long-term disability ("LTD") insurance provided that the participation of such employees is allowed by the insurance carrier/plan eligibility rules.

The employer's contribution for health insurance and life and LTD insurance for eligible participating employees shall be determined on a pro-rata basis.

- C. Temporary or seasonal employees may work a flexible schedule for a period not exceeding 185 consecutive calendar days in each year of employment, or such other amount of time as determined by the City Administrator or designee. Full-time students under the age of 23 may also work a flexible schedule as allowed by law. Employees who are temporary, seasonal, and/or full-time students are not eligible for fringe benefits.

Employees should be made aware of their work schedules by a method suitable for the various city departments. Any changes in work schedules usually will be made known to employees affected ahead of time when the schedules take effect, except in the case of emergencies.

Section 9.02 Time Sheets

Each employee of the City shall complete an accurate time sheet following the proper procedure and timeline. Time sheets shall cover a two (2) week (fourteen (14) day) period except Paid on-call Firefighters whose timesheet will cover a full calendar month. Time sheets shall be completed by each employee and shall show all hours worked and the department the work is to be charged to. All overtime, if applicable, shall be approved by the Department Head. Reporting false information on a time sheet may be cause for disciplinary action up to and including immediate termination.

Section 9.03 Supervisory Employees

The City Administrator, Department Heads, and non-union supervisory employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards Act may be allowed to maintain limited flexibility in their work schedule from the normal workday to the extent that job performance and service responsibilities of the City to the public remains satisfactory and at the approval of the employee's supervisor. This limited flexibility means that, if a Department Head or non-union supervisor is absent for four or more hours in any normal workday, appropriate leave must be utilized to account for the absence.

The regular work week for all regular employees, including Department Heads and non-union supervisors consists of five workdays. Even though Department Heads and non-union supervisors may be required to work additional hours for night meetings, City functions and duties, etc., the employee must report to work all five days per week, even if the actual hours worked exceeds 40 hours prior to the fifth day. If an employee does not report to work for an entire day in a work week, the timesheet must show which type of appropriate leave is being taken (e.g., eight hours of vacation time).

If a Department Head or non-union supervisor needs to work a full day on a weekend or holiday, he or she may make a request to the Department Head (for non-union supervisors), City Administrator (for Department Heads), to have this workday switched to allow for a day off on another day. This request must be approved by the Department Head or City Administrator as appropriate, before the employee switches his or her work schedule.

Section 9.04 Adverse Weather Conditions

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). An employee may be allowed to work from home with prior approval by their supervisor; allowed to use accrued vacation time or compensatory time, or with supervisor approval; or may modify their work schedule if allowed without incurring overtime per the applicable union contract or make other reasonable schedule adjustments.

Sworn police officers, firefighters, utility and public works maintenance employees will generally be required to report to work regardless of conditions.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or the City Administrator.

ARTICLE 10. OVERTIME HOURS

Section 10.01 General

Overtime pay for employees will be in conformance with State and federal law, including Minnesota Statutes, ARTICLE 177.25 (as amended) and the Federal Fair Labor Standards Act, 29 United States Code, ARTICLE 201 et seq., ("FLSA") as amended, and all applicable State and federal rules and regulations implementing ARTICLE 177.25 and/or the FLSA.

- A. For purposes of computing overtime for employees, other than BPU employees, work weeks shall begin at 12:00 a.m. on Sunday. For purposes of computing overtime for BPU employees, work weeks shall begin at 12:00 a.m. on Monday.
- B. Hours worked by non-exempt, non-union employees in excess of forty (40) per week shall be compensated at one and one-half (1 ½) times their hourly wage rate unless a different rate is established by an employment contract.
- C. Holiday hours actually worked are calculated as time worked in the computation of overtime pay.
- D. For the purposes of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.
- E. No employee may work overtime without the prior approval of his or her Department Head, or designee.
- F. Exempt, non-union employees shall not be eligible for overtime compensation or compensatory time, except as provided in Section 4 of this Policy.

Section 10.02 Payment

Department Heads are responsible to schedule the work in their departments to minimize overtime. Overtime shall be inputted in 1/4 hour (fifteen minute) increments.

Section 10.03 Compensatory Time

Upon request, non-exempt, non-union employees will be allowed to earn compensatory time in lieu of receiving overtime compensation. In no event, shall accrued compensatory time off exceed the limitations provided in the FLSA. Once an employee has reached maximum accrual, compensation for additional hours must be paid in cash, rather than accrued as compensatory time off.

Compensatory time shall be determined at the rate of one and one-half (1½) hours off for every hour of overtime worked, or at a higher rate, if the employee receives a higher rate of pay for the overtime hour(s) in question in accordance with the terms of a collective bargaining agreement or other employment contract. Compensatory time off will be granted in not less than one-quarter hour units.

The City reserves the right to pay out any compensatory time off in excess of 80 hours, as it deems necessary. Accrued compensatory time off may be used with prior approval from the employee's Department Head, which shall be granted unless use of compensatory time off would unduly disrupt the operations of the City.

Upon separation from the City's employment, employees shall be paid for their accrued, but unused compensatory time off in accordance with the FLSA and other applicable law.

Section 10.04 Overtime for Exempt Employees

Notwithstanding the above, exempt employees may receive overtime compensation to the extent provided in an intergovernmental agreement or other contract between the City and another entity, if the contract requires the other entity to pay the cost of overtime hours.

ARTICLE 11. PERSONNEL/PAYROLL

Section 11.01 Personnel Records

An employee must notify the Department Head and the Human Resource Director in case of a change in address, telephone number, marital status, or number of dependents. If at any time an employee's address or telephone number is changed and the change is not reported, it may be difficult or impossible to complete delivery of messages, notices, or other information which should be received. Incomplete information creates problems with payroll deductions and fringe benefits, such as medical coverage. Accordingly, the failure to provide such information may impact the City's ability to provide pay and/or benefits to City employees.

Section 11.02 PERA (NOTE: See PERA's Website: www.mnpera.org to verify contribution rates)

Almost all city employees in the State of Minnesota are covered by a public pension system known as the PERA. Both the City and employees contribute to PERA. For specific information regarding annual contribution rates, contact the Human Resource Director. Vesting time varies depending on your membership eligibility date and the pension is portable among public employers throughout the state. Being vested means you qualify for benefits at the minimum allowable age.

In normal situations, employees and employers both contribute a percentage of the employee's gross salary to PERA. However, Minnesota law provides that some income received by an employee are not eligible for PERA contributions. Employees should contact the Human Resource Director with specific questions regarding PERA contributions.

Section 11.03 FICA

All full-time, part-time, temporary and/or seasonal employees are mandatory members of Federal Insurance Contribution Act (commonly known as Social Security). The City is required to deduct certain amounts from such employees' gross salary. Certain employees may be exempt from this deduction. Employee should contact the Human Resource Director with specific questions regarding FICA deductions.

Section 11.04 Medicare

All full-time, part-time, temporary and/or seasonal employees have a mandatory deduction for Medicare tax taken from their paychecks. Employee should contact the Human Resource Director with specific questions regarding Medicare deductions.

Section 11.05 MN Deferred Compensation

The City is a member of the Minnesota Deferred Compensation Plan. An employee may, at their option, defer any part of income, to a maximum amount set by law, of gross salary. The City does not contribute any monetary amount to the MN Deferred Compensation Plan unless required by the provision of collective bargaining agreement.

ARTICLE 12. SEPARATION FROM EMPLOYMENT

Section 12.01 General Statement

Separation from employment is an inevitable part of personnel activity within any organization, and there are many reasons for separation. The reasons for separation include: (1) resignation; (2) discharge (in accordance with ARTICLE 28 of these policies); (3) layoff; and (4) retirement (in accordance with ARTICLE 13 of these policies).

An employee leaving the City, for any reason, must turn in his/her identification badge and card, tools, shop coats, keys, books, and other City equipment no later than the last day of work. The employee is expected to go through an exit interview with the Human Resource Director on his/her last day of work. This interview is important for both the City and the employee. Through this interview, information may be provided which can lead to the causes of turnover, absenteeism, poor communication, etc. Oftentimes problems

are discovered which appeared non-existent previously. It can be an effective means for gaining insight into potential personnel problems.

Section 12.02 Resignation

As at-will employees, all City employees may resign at any time, for any reason. In order to be considered “in good standing” at the time of resignation, an employee must file with employee's department head, at least 14 days before leaving, a written resignation stating the effective date of the resignation. Department Heads and non-union supervisors wishing to resign “in good standing” should give the City as much advance notice as possible, but must provide at least 30 days’ notice. Failure to comply with this 14-day or 30-day notice procedure may be considered cause for denying the employee future employment by the City and denying termination benefits. Unauthorized absence from work for a period of three working days may be considered by the City Administrator as a resignation “not in good standing” and without benefits.

Section 12.03 Layoffs

After at least two weeks’ notice to the employee, the City Administrator may lay off any employee when such action is necessary because of shortage of work or funds, the abolition of a position, or changes in organization. If it should become necessary to reduce the City work force, the City may give consideration to the employees’ on-the-job performance, abilities, job knowledge and the potential for other jobs within the City.

Section 12.04 Final Pay Following Termination of Employment

Subject to applicable law, employees who terminate employment with the City shall receive their final pay settlement a maximum of two weeks from the date of resignation, coinciding with the next normal payday.

ARTICLE 13. RETIREMENT AND SEVERANCE PAY

Section 13.01 Procedure

Regular employees who retire voluntarily in good standing, as defined in ARTICLE 29, after giving at least two (2) weeks notice to the City and are eligible to immediately begin receiving monthly retirement benefits under the provisions of PERA as of the date of his or her retirement shall be granted severance pay based on the following conditions and rates:

Section 13.02 Conditions

- A. Retirement - voluntary and in good standing, as defined in ARTICLE 12.
- B. Voluntary retirement or termination of employment in good standing, as defined in ARTICLE 13, due to health reasons, service-connected injury, or illness.

Section 13.03 Rates

All regular employees, regardless of the date of hire, shall be entitled to 100 percent of their unused sick leave as severance pay, with a maximum of nine hundred sixty (960) hours, upon retirement in good standing, as defined in ARTICLE 12, or if they become disabled and must terminate their employment, with written proof by a physician. In the event of death, severance pay shall be paid to the beneficiary. Pay for unused sick leave shall be based on existing annual wage as described in Exhibit C or applicable union contract.

ARTICLE 14. MEAL AND COFFEE BREAKS

All hourly employees shall receive one (1) fifteen (15) minute rest period during each four (4) consecutive hours of work. Rest periods are part of the paid work shift. An employee shall not be compensated additional wages or time off for not taking a scheduled rest period. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or meal time, including any standard meal time designated by a specific Department—or accrue compensatory time—by saving these breaks. Breaks should be scheduled so as to not interfere with work requirements.

In general, City employees working a scheduled full-time shift are entitled to a one (1) hour uncompensated meal period. Meal periods shall be scheduled by the department head or supervisor. Employees will not be permitted to adjust work start time or accrue compensatory time by skipping or shortening meal breaks.

ARTICLE 15. HOLIDAYS

The following holidays, or days observed as such, shall be considered paid holidays for all regular employees:

- New Year's Day
- Martin Luther King, Jr. Day
- Presidents' Day
- Memorial Day
- Veterans' Day
- Independence Day
- Labor Day

Thanksgiving Day
Friday after Thanksgiving Day
Christmas Day
2 "Floating" holidays

When an official holiday recognized in this policy falls on a Saturday, the preceding Friday shall be declared a holiday for employees whose normal work schedule is Monday through Friday. When an official holiday recognized in this policy falls on a Sunday, the following Monday shall be declared a holiday for employees whose normal work schedule is Monday through Friday.

If a recognized holiday falls during an eligible employee's paid absence (e.g., vacation, sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.

Union employees shall be compensated for holiday time according to the terms and conditions of their collective bargaining agreement.

Requests for floating holidays shall require three (3) days' written notice to the Department Head. Such requirement may be waived when absence of the employee will not unduly affect the functioning of the department.

Employees will be accredited their floating holidays on January 1st of each year and may use them at any time during the year.

New employees whose first working day is between January 1st and June 30th, inclusively, shall receive two (2) floating holidays and new employees whose first working day is between July 1st and December 31st, inclusively, shall receive one (1) floating holiday.

All floating holidays must be taken in one (1) day (or eight (8) hour) increments. Floating holidays are not carried over year-to-year and must be used in the calendar year that they are received. Floating holidays not used by December 31 of the calendar year they were received are forfeited.

ARTICLE 16. REGULAR VACATION

Section 16.01 General Vacation Rules

A. When Taken

Vacation leave may be taken after written approval by the Department Head or designee. Vacation leave will be granted in not less than one-quarter hour units. Probationary employees' use of vacation leave is subject to ARTICLE 8 of these policies.

B. Length of Service

Length of service for the purpose of determining vacation accrual is calculated from the date of hire with the City. If an employee returns to work at the City after a break in service, the employee's length of service will be calculated from the date of rehire.

C. Scheduling Vacation

Department Heads are responsible for approving the scheduling of vacation leaves for employees under their supervision, and approval is not automatic.

1. Consideration shall be given to seasonal demands and departmental staffing needs before granting any vacation leave requests.
2. Subject to the needs of the Department, preference in scheduling shall be based on the order in which vacation requests are received and/or seniority of employees.

D. Monetary Consideration in Lieu of Vacation

Vacation pay shall be reflected on the paycheck issued for the pay period in which the vacation is taken. No vacation shall be paid in lieu of taking time off, except as authorized under the City's Cafeteria Plan.

E. Accrual of Vacation

Employees may accumulate vacation time equal to a maximum of 240 hours. Vacation accrual will cease if an employee is off of the City's payroll system for any reason whatsoever, except as required by law.

F. Vacation Payout

Employees who leave the employment of the City in good standing, as defined in ARTICLE 12 of these policies, by retirement or resignation will receive pay for 100 percent of unused accrued vacation. An employee shall not be considered to be "in good standing" if the employee resigns or retires following allegations of misconduct, as determined by the City Council in its sole discretion.

All full-time employees, except the City Administrator and Department Heads, shall earn vacation at the rate of: 6.67 hours per full month worked during the employee's first five years of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

5 years of service - 10.00 hours per month
10 years of service - 10.67 hours per month
11 years of service - 11.33 hours per month
12 years of service - 12.00 hours per month
13 years of service - 12.67 hours per month
14 years of service - 13.33 hours per month
15 years of service - 14.00 hours per month
16 years of service - 14.67 hours per month
17 years of service - 15.33 hours per month
18 years of service - 16.00 hours per month
19 years of service - 16.67 hours per month
20 years of service - 17.33 hours per month
21 years of service - 18.00 hours per month
22 years of service - 18.67 hours per month
23 years of service - 19.33 hours per month
24 years of service - 20.00 hours per month

City Administrator and Department Heads shall earn vacation at the rate of:

Ten (10) hours per full month worked during the first year of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

1 year of service - 10.67 hours per month
2 years of service - 11.33 hours per month
3 years of service - 12.00 hours per month
4 years of service - 12.67 hours per month
5 years of service - 13.33 hours per month
6 years of service - 14.00 hours per month
7 years of service - 14.67 hours per month
8 years of service - 15.33 hours per month
9 years of service - 16.00 hours per month
10 years of service - 16.67 hours per month
11 years of service - 17.33 hours per month
12 years of service - 18.00 hours per month
13 years of service - 18.67 hours per month
14 years of service - 19.33 hours per month
15 years of service - 20.00 hours per month

ARTICLE 17. EMPLOYEE LEAVES

Section 17.01 Jury Duty

Any employee who is required to serve as a juror shall be granted a leave of absence with pay while serving in such capacity. Employees will be required to turn over any compensation they receive for jury duty, minus mileage reimbursement, to the City in order to receive their regular wages for the period. An employee cannot receive more than the employee's normal take-home pay as a result of any employer pay supplemented to Jury Duty pay. Jury duty pay must be remitted to the City. When employees are excused from jury duty during their regular working hours, they are expected to return to work if practicable. If a holiday occurs during jury duty, the employee shall be paid for the holiday.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued vacation or compensatory time to make up the difference.

Insurance benefits will remain in effect for the full term of jury duty leave. Employees must continue to make employee contributions for any insurance that requires payment on their part.

Vacation time and sick time shall continue to accrue during the period of leave. Benefits will continue to accrue as though the employee were actively at work.

Section 17.02 Military Leave

Employees shall be entitled to leave without pay for military service, including training in the National Guard, consistent with the Uniformed Services Employment and Re-employment Rights Act of 1994 ("USERRA") (as amended) and Minnesota law, including, but not limited to, Minnesota Statutes, chapter 192 (as amended).

Section 17.03 Leave for Service in Organizations

The City Council with the recommendation of the City Administrator and Personnel and Finance Committee, may grant a leave of absence without pay for reasonable periods not to exceed one (1) year to any regular employee for the purpose of serving in an elected or appointed position, other than as a paid employee, in a professional organization or a governmental commission or committee, provided such leave will not reduce the quality or level of service to the public.

No vacation leave, sick leave, holiday leave or compensatory time off benefits shall be used or accrued during a leave of absence and the City will not contribute to insurance premiums.

Section 17.04 Parental Leave

Parenting Leave, as provided for in Minnesota Statutes, including ARTICLE 181.941, as amended, grants qualifying employees unpaid leave of up to twelve (12) weeks for: (1) a biological or adoptive parent in conjunction with the birth or adoption of a child; or (2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or a related health condition. Parental Leave is considered to be taken simultaneously with FMLA leave. If leave is taken due to the birth or adoption of a child, the leave must begin within twelve (12) months of the birth or adoption, unless the child remains in the hospital after the mother has been discharged, in which case the leave must begin within twelve (12) months after the child leaves the hospital.

Section 17.05 Funeral Leave

All regular full-time employees shall be permitted paid funeral leave not to exceed 24 hours, if necessary, for the death of an immediate family member (employee's spouse, child, step-child, father, mother, brother, sister, father-in-law, mother-in-law) and one (1) working day, if necessary, for the death of an employee's grandparent. Funeral leave for other relatives may be granted at the discretion of the Human Resource Director. Up to twenty-four (24) additional hours of sick leave may be used as additional funeral leave at the discretion of the City Administrator. For purposes of this policy, the term "working day," means a regularly scheduled shift, excluding any time that an employee would be considered "on call" unless the employee actually would have been called to perform duties during that period.

Section 17.06 Sick Leave

All full-time employees shall earn sick leave at the rate of one (1) day (8 hours) per month of employment. Sick leave will be granted in not less than one-quarter hour units. Sick leave accumulation shall be a maximum of 120 days (960) hours.

An employee may use sick leave when the employee is unable to attend work or perform work duties due to illness, injury, the necessity for medical, dental, or chiropractic care, childbirth, or exposure to contagious disease where such exposure may endanger the health of others with whom the employee would come in contact during the course of performing work duties. Employees may also use their accrued sick leave for the following:

- A. Illness or injury of the employee's spouse, child, adult child, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent. Sick leave to care for an injury or illness of the employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent is limited to 160 hours (20 days) in any given twelve (12) month period;
- B. "Safety leave," as provided in Minnesota Statutes, ARTICLE 181.9413(b), as amended. Employees may use up to 160 hours (20 days of an eight-hour shift) of sick leave for "safety leave" during any given twelve (12) month period.
- C. Any other purpose for which the City is required to allow an employee to use sick leave by State or federal law, including, but not limited to, Minnesota Statutes, ARTICLE 181.9413, as amended.

When requesting sick leave for a scheduled or foreseeable absence, employees must notify the supervisor as soon as the employee is aware of the need to utilize sick leave.

To be eligible for sick leave with pay, an employee shall:

- A. Report as soon as possible to the employee's immediate supervisor as described above. If the need for sick is not foreseeable, the employee must notify his/her supervisor as soon as the employee becomes aware of the need for leave. The employee shall identify if the absence is due to the employee's illness or the employee's immediate family, as listed above;
- B. Keep the employee's immediate supervisor informed of such employee's need for continued absence; and
- C. To the extent allowable by law, for any absence that exceeds three days, upon request by the City Administrator, submit a medical certificate before the employee will be allowed to return to work.

Sick leave accrual will cease if an employee is off of the City's payroll system for any reason whatsoever.

To the extent allowable by law, the City reserves the right to require any employee returning from sick leave to provide a certificate stating that he or she is able to perform the essential functions of his or her position, with or without reasonable accommodation.

In case of disability caused by sickness or injury and covered by Workers Compensation, the City will pay to the employee only such sums, as together with Workers Compensation payments, will equal their base pay but never for a longer period than their accumulated sick leave and vacation leave. The time deducted from the employee's accumulated sick leave, until exhausted and then vacation, until exhausted, shall be the difference between

the employee's normal gross pay and the payment received by the employee for workers compensation. An employee cannot receive more than the employee's normal take-home pay as a result of any workers compensation payment.

In such case, to the extent allowable by law, once sick leave is exhausted, the time deducted from accumulated vacation leave shall be in the same amount as the proportion of wages paid by the City bears to the entire base pay of the employee. No sick leave or vacation leave will be paid to employees while actually working for others.

Section 17.07 Extended Medical Leave

When medically necessary, and upon receipt of a medical certificate from an employee's treating physician, the City Administrator may approve a request for a medical leave extension of up to 90 days due to the employee's serious medical condition or to care for a spouse, parent or child who has suffered a serious medical condition.

Before using unpaid leave under this ARTICLE, the employee must use all paid leave. Leave granted pursuant to this Section may run concurrently with leave under the Family and Medical Leave Act ("FMLA").

Employees will not earn or accumulate benefits or other compensation while on unpaid leave, except as required by law. A medical certificate attesting to the employee's fitness for duty shall be required prior to any employee returning to work from medical leave. Also, the City may require that the employee submit to an examination by a medical provider selected by the City to determine whether the employee is able to perform the essential functions of his or her job, with or without reasonable accommodation.

The Human Resource Director may consult with a physician or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.

Section 17.08 Personal Leave

Upon written request of an employee, the City Council may grant an employee a leave of absence without pay for a period of up to 90 consecutive calendar days, at its sole discretion.

Employees will not earn or accumulate leave, benefits, or other compensation while on unpaid leave except as required by law.

Section 17.09 School Leave

To the extent required by law, employees may take up to a total of sixteen (16) hours per twelve (12) month period of unpaid leave to attend school conferences and school-related activities related to the employee's child, provided the conferences or other school-related activities cannot be scheduled during non-work hours. Employees taking leave for this purpose may, but are not required to, substitute vacation or compensatory time for any part of this unpaid leave.

Section 17.10 Family & Medical Leave

Eligible employees, as determined by the Human Resource Director or designee, may be entitled to take unpaid leave pursuant to the Family and Medical Leave Act ("FMLA") for the purposes described in 29 U.S.C. § 2612 (as amended). All such leave, including the responsibilities of the City and its employees related to such leave, is subject to the conditions prescribed in the FMLA and the Department of Labor's regulations implementing the FMLA.

A. Restrictions on FMLA Leave

For additional information regarding FMLA leave, including the circumstances in which such leave may be taken, employees should consult the posted notices. In addition, as permitted by the FMLA, the City places the following restrictions on eligible employees' use of FMLA leave:

1. The City has designated a "rolling" twelve (12) month period for purposes of determining employees' entitlement to FMLA leave. The "rolling" twelve (12) month period is measured backward from the date the employee uses any FMLA leave.
2. Spouses employed by the City are permitted to take a combined total of twelve (12) work weeks of FMLA leave during a single twelve (12) month period if the FMLA is: (1) due to the birth of a son or daughter of the employees; (2) due to the placement of a son or daughter with the employees for adoption or foster care; or (3) in order to care for a parent of the eligible employee.
3. Employees who request leave under this policy based on: (1) their own serious health condition; (2) to care for a parent, spouse, or child's serious health condition; or (3) military caregiver leave, are required to submit a completed medical certification that complies with the requirements of the FMLA. Medical certification forms are available from Human Resources. The City reserves the right to request a second opinion, at the expense of the City, to the extent permitted by the FMLA. If the results of the employee's certification differs from

the results of the City's certification, the City may obtain a third opinion at the City's expense. The City also reserves the right to require periodic recertification, to the extent allowed by the FMLA and to contact the certifying medical provider to authenticate or clarify the medical certification in lieu of seeking a second opinion. Separate certification may also be required regarding the nature of the family member's military service and/or the existence of a qualifying exigency, if leave is requested for that purpose.

4. Except in emergency situations, the employee is required to provide written notice of the need to take leave to his or her immediate Supervisor not less than thirty (30) days before the date the leave is scheduled to begin. If the leave is to begin in less than thirty (30) days, the employee shall provide such written notice as soon as practicable.
5. Employees are required to use all accrued sick leave, vacation leave, and any other accrued paid leave concurrently with leave provided under the FMLA. Employees with both accrued sick and vacation leave are required to use sick leave and compensatory time, if any, before using accrued vacation leave. The combined paid and unpaid leave cannot exceed the applicable twelve (12) week or twenty-six (26) week maximum FMLA leave time. FMLA leave may run concurrently with a worker's compensation absence if the on-the-job injury or illness also qualifies as a serious health condition under the FMLA.
6. Subject to the terms, conditions, and limitations of applicable plans, eligible employees are entitled under the FMLA to the same health insurance benefits provided by the City while on FMLA leave to the same extent as if the employee were not on FMLA leave. Employees who contribute toward their health care coverage must continue to make that contribution while on leave, either through payroll deduction (if using paid leave) or by personal check (if using unpaid leave). If the employee fails to return to work after taking family or medical leave, the City may recover the premiums paid by the City for group health and life insurance unless the serious health condition of the spouse, child, parent or employee continues or for other circumstances beyond the control of the employee.
7. Vacation, sick, and holiday leave will not be earned during a period of unpaid FMLA leave. FMLA leave, whether paid or unpaid, will not constitute a break in service for purposes of computing years of service.
8. The City requires a medical certificate attesting to the employee's fitness for duty prior to the employee being allowed to return to work. The fitness for duty report must be based on the particular health condition(s) for which the leave was approved and must address whether the employee can perform the

essential functions of the job. The Human Resource Director or designee may consult with a physician or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.

9. Records of FMLA leave will be kept along with normal personnel records except that any medical record(s) will be maintained separately in accordance with applicable laws.

B. Effect on Pension:

Employees should contact the MN Public Employees Retirement Association ("PERA") for information about how FMLA leave may affect their retirement benefits.

C. Training:

Employees who have missed training sessions while on FMLA leave will be given a reasonable opportunity to make them up upon returning to work.

Section 17.11 Department Head Absenteeism Notification

Except in the event of an emergency that prevents such notice, Department Heads shall notify the City Administrator prior to any absence from the office.

Section 17.12 Catastrophic Leave Bank

POLICY STATEMENT

The City of Brainerd recognizes that occasions arise when employees may have exhausted their vacation leave, sick leave and compensatory time, due to a non-work related injury or prolonged illness that has not yet qualified for long-term disability insurance benefits. It is the intent of this policy to provide an opportunity for City employees to voluntarily donate vacation leave hours to an emergency medical leave bank for use by other City employees who demonstrate a catastrophic medical emergency. The program is voluntary in nature and does not guarantee any resulting benefit to any employee in need nor does it require participation of any employee. This policy applies to employees of bargaining units upon agreement of their exclusive representative.

Eligibility

All non-probationary City employees, including members of collective bargaining units whose exclusive representatives have agreed to this policy, are eligible to participate in this Catastrophic Medical Leave Sharing Bank ("CMLSB"). Donation to the bank is entirely voluntary.

Definitions

- A. “Catastrophic Medical Emergency” is a major life-threatening disease or illness or non-work related major injury involving a prolonged absence from work. Per the dictionary, a catastrophe is a momentous tragic event ranging from extreme misfortune to utter overthrow or ruin.

Examples may include: heart attack, stroke, organ transplant, cancer or major non-work-related injury.

The medical emergency must result in the incapacitation of the employee, spouse, or child/stepchild for a minimum of 80 consecutive work hours (subsequent intermittent absences involving the same illness or condition shall also qualify) which requires the employee to take time off from work and creates a financial hardship because all of the employee’s paid leave has been exhausted.

“Catastrophic medical emergency” is specifically not defined as all “serious health conditions” as defined under the FMLA.

- B. “Verification of catastrophic illness or injury” shall consist of a physician’s statement verifying that:
1. The employee is suffering from a major life-threatening disease, illness or non-work related major injury requiring a prolonged absence from work; or
 2. That the employee must be present to care for the employee’s spouse, child or stepchild who is suffering from a major life-threatening disease or illness or major injury; and
 3. A brief description of the nature of the illness or injury and the anticipated duration of the incapacity.
 4. The Verification of catastrophic illness or injury shall be in addition to the FMLA certification of health care provider.
- C. “Donor” is an employee who donates vacation leave to the Emergency Medical Leave Sharing Bank.
- D. “Applicant” or “Recipient” is a non-probationary City employee who has applied for or received leave from the CMLSB.
- E. “Committee” as referenced in this policy shall consist of the City Administrator, Human Resource Director, and the Chair of the Personnel and Finance Committee.

Catastrophic Medical Leave Sharing Bank BENEFITS AND LIMITATIONS

- A. The applicant must have exhausted all of the employee's own accrued vacation, sick leave, and compensatory time in order to receive any Catastrophic Medical Leave ("CML").
- B. The applicant may apply for CML while still in paid status, but no sooner than 80 hours before the exhaustion of all of the applicant's paid leave or CML.
- C. An applicant may be eligible to receive up to a maximum of 160 hours of CML per request, which shall be placed in the recipient's sick leave bank as needed per pay period in increments of no more than 80 hours at a time. Additional requests for CML may be submitted upon the anticipated exhaustion of the initial hours and medical verification of continued need, but the total CML granted to one recipient in relation to one medical emergency shall not exceed 480 hours. Part-time employees shall be eligible to receive CML on a pro-rata basis.
- D. Recipients of CML must use the leave only for the Catastrophic Medical Emergency. Any CML which is not used for the medical emergency shall be returned to the bank and cannot be retained by the recipient.
- E. An applicant shall be required to apply for FMLA leave in conjunction with the application for CML. Catastrophic Medical Leave time will run concurrently with any applicable FMLA leave.
- F. The recipient shall be in a paid status when using CML for the purpose of receiving benefits. When a pay period includes a holiday, a participant using CML shall receive holiday pay provided they are in a pay status the last regular shift prior to, and the first regular shift following the holiday.
- G. A recipient's CML pay will continue to be taxed in accordance with state and federal law, and all authorized deductions will continue to be deducted from the participant's paycheck, provided sufficient wages are available.
- H. All time donated to the pool shall be converted to a dollar amount based upon the donor's hourly rate of pay. All CML shall be used at the recipient's rate of pay.
- I. Leave from the CML may not be used for illness or disability which qualifies the participant for Worker's Compensation, long-term disability, PERA disability or Social Security benefits.
- J. An applicant shall be required to apply for long-term disability and PERA disability, as applicable, for the employee's own medical condition which results in the employee's absence from work for more than 90 calendar

days, whether before or after the employee has exhausted his/her own paid leave. The recipient applicant shall provide verification of such application.

- K. Leave donated to the CML Bank shall remain in the bank from year to year and shall be available to eligible employees. Donation of leave to the CML Bank is irrevocable.

Application Process

- A. Applicants shall be required to complete a form setting forth their request for CML, the reason, number of hours requested and the anticipated duration of the medical emergency. A new request form shall accompany each subsequent request. The CML Request form will be turned into the Human Resource Director prior to the start of the leave if possible. Requests will be reviewed by the Committee.
- B. The Applicant shall sign a waiver of liability in connection with the CML request and any subsequent request. The applicant shall provide a "verification of catastrophic illness or injury" with the request form or within (10) calendar days of the request. In the event that the Verification is not submitted in a timely manner, the CML request may be considered by the Committee but no leave will be disbursed to the applicant until the verification is received and reviewed by the committee.
- C. Applicants who are denied CML or whose withdrawal is not renewed or is terminated may, within fifteen (15) calendar days of denial, appeal the denial, non-renewal or termination by providing new or additional information to the Committee and completing a supplemental application and waiver. The final decision will be reported to the applicant, in writing, within ten (10) working days of the decision. This decision of the Committee is final. Such final authority is not subject to the grievance procedure or litigation and the applicant shall specifically waive any rights to review by any of these options.
- D. All requests for CML, verifications of catastrophic illness or injury and other documentation related to an applicant's medical condition or that of the applicant's family member shall be kept confidential and shall only be disclosed as necessary to administer request for withdrawal.
- E. If the CML bank does not have sufficient hours to fund a withdrawal request, the City is under no obligation to pay the applicant any funds. If a withdrawal request is denied in whole or in part because of insufficient dollars to fund the request, the applicant shall be notified in writing of the reason for the denial.

DONATION PROCESS

- A. A regular full or part time employee may donate vacation leave to the Catastrophic Medical Leave Sharing Bank twice annually, which shall occur with the first pay period in December or June. In the event that the CML Bank becomes depleted, the City Council may, in its sole discretion, authorize a third open window period for donation to the Bank.
- B. Donors are required to have a minimum of 80 hours of vacation leave available to them in their accrued vacation leave bank after a donation is made.
- C. Donation to the CML bank is irrevocable.

TENNESSEN WARNING

Information provided pursuant to the Catastrophic Leave Donation Policy is classified as personnel data pursuant to Minnesota Statutes, ARTICLE 13.43, as amended. You are not legally required to participate in the program and are therefore not required to provide any information. If you choose to participate in this voluntary program, you will be required to provide the information set forth above in order to donate or receive donated leave.

The requested and required information regarding leave donation requests, including medical information and the basis for leave donation requests will be disclosed to those individuals whose work assignments reasonably require access, including committee members, insurance vendors, consultants and attorneys. The information may also be used to make decisions regarding your eligibility for extended sick leave, family and medical leave, and other leaves; your eligibility for workplace accommodations, including accommodations for disabilities; and other benefits. The information may also be shared with other agencies authorized by law to receive specific data, including but not limited to: Civil/human rights; Worker's Compensation; Unemployment Compensation; and Labor Contracts.

Information regarding the value of donated leave as taxable income will be reported to the Minnesota Department of Revenue, the Internal Revenue Services and security tax programs.

ARTICLE 18. EMPLOYEE INSURANCE

Section 18.01 Medical Insurance

The City provides a medical coverage insurance plan for eligible employees as described in the Summary Plan Description.

The insurance coverage takes effect the first day of the month coinciding with or immediately following the employee's date of hire, except as required by applicable law, including, but not limited to, the Affordable Care Act. The City provides contributions to health insurance premiums as approved annually by the City Council.

The City will contribute towards the health insurance premiums of employees and elected officials as described in Exhibit A to this Policy Manual. Information regarding health insurance benefits will be provided by the Human Resource Director for new employees and periodically thereafter. Any further questions pertaining to insurance coverage shall be directed to the Human Resource Director or designee.

Section 18.02 Life and LTD Insurance

The City provides a term life insurance policy for all eligible employees, as described in Exhibit B and the applicable Summary Plan Description. The plan takes effect the first day of the calendar month coinciding with or immediately following completion of six months of employment. The amount of life insurance coverage provided is described in an applicable collective bargaining agreement or determined by the City Council. For elected officials, Department Heads, and non-union Supervisors, the City will provide life insurance in the face amount described in Exhibit B.

The terms of the long-term disability coverage, including the formula used to calculate the benefit and the waiting period before an employee may receive long-term disability benefits will be established by the City, as described in Exhibit B to this Policy Manual.

Section 18.03 Workers Compensation

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available and the nature of injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to their supervisor and make arrangements for a medical appointment.

Workers' compensation benefits and procedures to return to work will be applied according to applicable state and federal laws.

Pursuant to Minnesota State law, the officials of the City elected or appointed for a regular term of office or appointed to complete the unexpired portion of a regular term are included in the coverage of the Minnesota Workers' Compensation Act.

ARTICLE 19. HEALTH CARE SAVINGS PLAN

The City Administrator, Department Heads, and Non-Union Supervisors are eligible to participate in the Minnesota Health Care Savings Plan ("HCSP"). This plan is pursuant to the Minnesota Statutes, ARTICLE 352.98 (as amended). Details regarding employees' participation in the Minnesota Health Care Savings Plan are included in Exhibit C. Employees should direct any questions about participation in this plan to the Human Resource Director.

ARTICLE 20. CAFETERIA PLAN

The City of Brainerd offers its employees a cafeteria plan. The plan allows employees to pay for health insurance premiums, and medical and/or dependent care expenses on a before-tax basis.

The flexible spending program is divided into three (3) separate accounts, which are summarized below:

A. Insurance Premiums Deducted from Paychecks: The amount of premium which is deducted per pay period for health insurance coverage per settled wage/benefits negotiations. Some voluntary insurance deductions may also be eligible.

B. Medical Expenses: Out-of-pocket medical, dental & vision expenses not covered by insurance.

C. Dependent/Childcare Expenses: Dependent care expenses for the care of a child under age 13 and/or a dependent regardless of age who requires care due to an inability to care for himself or herself.

The law limits the maximum contributions that employees can make to their flexible spending account and the specific expenses that can be paid out of such accounts. Employees should contact the Human Resources office for additional details.

Further information on the City's Cafeteria Plan may be obtained from the Human Resource Director.

ARTICLE 21. EDUCATION, TRAINING AND DEVELOPMENT

The City Council has determined that it is in the best interest of the City of Brainerd to support continuing education, training, and development of staff members in order that they may carry out their duties in the most efficient and productive manner possible.

To further this policy the City Council does authorize payment for education, training and/or staff development directly related to an employee's current position in order to

increase his/her efficiency and productivity in that position in accordance with the following criteria and procedure.

Section 21.01 Education

The City may reimburse a regular employee for tuition expenses and course fees under certain circumstances. There shall be no reimbursement for mileage/parking expense. Qualifying tests (SAT, ACT, GRE, CLEP, etc.), required books, student activity fees, and material costs will not be reimbursed. Courses for which the employee receives another source of funding, such as a grant or scholarship, will not be eligible for reimbursement.

1. **Pre-Approval.** Prior to starting a class or classes, and in any event no later than August 1 of each year, the employee must obtain written approval from the employee's Department Head and the City Administrator or BPU Commission (for BPU employees only) that the class, certificate, or degree is job related and that the request would benefit the City. Specifically, the courses must be from an accredited institution and directly related to the employee's current assignment or has the potential for promotional opportunities for the employee. The Department Head must verify that the Department budget will cover this expense before recommending approval to the City Administrator or BPU Commission. Each approval shall be limited to a single course or academic term. Enrollment in a multiple-year course of study, or approval of reimbursement for any portion of such a course of study does not guarantee that funding will be available in subsequent years or that the City will approve any future course of study, even if related to one that was approved in the past. An employee who is requesting reimbursement for education expenses must have been a regular employee of the City for at least one year before the scheduled course is scheduled to begin.
2. **Satisfactory Completion.** The employee shall provide the Department Head with proof of satisfactory completion with a grade of "B" or better of any course requested for reimbursement, prior to reimbursement.
3. **Employees seeking reimbursement must present a paid fee statement and grade transcript in order to receive reimbursement.**
4. **Reimbursement for classes taken at private institutions shall not exceed the tuition charged by the Minnesota State University system.**
5. **Time Off.** If class is during the regular workday, an employee must take that time as compensatory time, vacation time, or leave of absence without pay, or the employee can request a flexible scheduling arrangement, subject to approval by the Department Head and City Administrator or BPU Commission (for BPU employees only). Classes or course work taken by the employee must not disrupt or interfere with the normal Departmental operations. Completion of preparatory work and homework are not permitted during scheduled work hours.

6. Continued Employment. The employee must remain with the City of Brainerd following completion of the course for which the City provided reimbursement pursuant to this policy, or else return to the City the expense amount(s) reimbursed pursuant to this policy. If the employee voluntarily terminates employment with the City after receiving education reimbursement pursuant to this policy, the employee must repay the reimbursed tuition immediately according to the following schedule:
 - Up to 1 year after receiving reimbursement – 100% of the tuition reimbursement
 - 1 year but less than 2 years after receiving reimbursement – 66% of tuition reimbursement
 - 2 years but less than 3 years after receiving reimbursement – 33% of tuition reimbursement
 - 3 years or longer after receiving reimbursement – 0% of tuition reimbursement
7. Funding Procedure. Subject to paragraph 4, above, the City will reimburse its employees for tuition expenses up to a maximum of \$1,500 per calendar year with a total lifetime maximum of \$6,000. All reimbursements shall be subject to applicable IRS regulations. The scope, terms and conditions of this reimbursement shall be defined and interpreted by the City Administrator or BPU Commission (for BPU employees only). Reimbursement is further limited based on availability of budgeted funds. Reimbursements are on a first come, first served basis and shall not exceed the department budget. In the event a department receives reimbursement requests that exceed its budget allocation for education reimbursement, the Department Head and City Administrator (or BPU Commission, for BPU employees only) shall have the discretion to apportion the available funds, including the discretion to refuse reimbursement.
8. The Human Resource Director will develop and maintain forms for requesting approval of class eligibility prior to registration and forms requesting reimbursement after successful completion of classes.

Section 21.02 Training and Development

1. The City will pay for job-related, position specific training approved by the Department Head and City Administrator or BPU Commission (for BPU employees only) and deemed necessary to effectively complete the requirements of the position, provided there is adequate funding in the budget appropriation for training, as determined by the Department Head in consultation with the City Administrator or BPU Commission (for BPU employees only).

2. Subject to Paragraph 1 of this ARTICLE, the City will pay for, or reimburse employees for, any and all training required by the City, including training required to attain or maintain job-related certification. Payment of training and/or conference expenses must not exceed \$1,500 per employee per fiscal year, excluding travel and subsistence costs. Exceptions must receive approval by the City Administrator or BPU Commission for BPU employees.
3. Attendance at training or conferences out of state is generally approved only if the training or conference is not available locally. All requests for out of state travel and/or national conferences that are applicable to their current position are reviewed for approval/disapproval by the City Administrator or BPU Commission for BPU employees.
4. The Department Heads will maintain records on all employee training done at City expense.
5. The procedure for payment for training and development is as follows:
 - a. A request for payment of fees and course materials must be approved by the City Administrator or BPU Department Head (for BPU employees only), or designee. Such approval will only be granted when it can be demonstrated that the training directly relates to the employee's present position and that it will potentially enable the employee to perform his/her duties in a more efficient and productive manner.
 - b. All course materials paid for by the City are the property of the City of Brainerd and shall be brought to the Department Head of the appropriate Department upon completion of the training.

For purposes of this policy, training and development will include seminars, workshops, and training sessions designed to provide specific applications to an employee's present position. Such training must be approved by the Department Head or the City Administrator.

The City Administrator may grant a leave of absence with or without pay to an employee for the purpose of attending schools, meetings, conferences, and other functions which are a benefit to the City of Brainerd, if, in the City Administrator's judgment such leave will not cause disruption of service.

All training and education opportunities described in this policy are subject to the availability of funds and the budgets of individual departments as well as the City's overall budget.

ARTICLE 22. EMPLOYMENT RELATED REIMBUREMENTS

Section 22.01 Travel & Meal Reimbursement

If employees are required to travel outside of the area in the performance of their job duties, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred, consistent with this Policy.

Travel Approval

Each Department Head is responsible for ensuring that employee travel is approved only if such travel is for City business and is consistent with City policy. Department Heads are responsible for approving all travel requests within their respective departments and must ensure that departmental budget dollars are sufficient to cover requested travel prior to approving. Requests for travel by Department Heads must have prior approval by the City Administrator. The following approvals are needed prior to employee travel:

- 1) **Same Day with Overnight Travel** - Department Head approval is required.
- 2) **Out of State, More Than 300 Miles From Brainerd** - All out-of-state travel exceeding a 300-mile radius from Brainerd must be approved within the annual budget process which is approved by the City Council and BPU Commission. All employees must receive prior approval from their Department Head. Unless otherwise approved by the City Council or BPU Commission, an employee is only eligible to travel out-of-state more than 300 miles from Brainerd on City business once every other year.
- 3) **Out of State, Less Than 300 Miles From Brainerd** - All out-of-state travel within a 300-mile radius of Brainerd must be approved by the Department Head or City Administrator and does not require City Council or BPU Commission approval.

Such authorization must be received by the employee prior to incurring the actual expenses and shall be subject to the availability of funds and the terms of this Policy.

Reimbursable Expenses

1) Transportation

Several means of transportation exist and each travel request shall consider the least-costly method. For the majority of travel requests, a City vehicle provides the least cost to the City and shall be considered before any other means. Vehicles from other departments may be available and shall be a consideration. Unless otherwise authorized by the Department Head or City Administrator, all City-related transportation must be by City vehicle.

- a) **City Vehicle** – All direct expenses, other than personal expenses, incurred with regard to the use of a City vehicle will be reimbursed, including fuel, oil, and maintenance/repair expenses. Only City employees are authorized and insured to drive a city-owned vehicle. The use of a City vehicle is otherwise subject to the City's policies.

- b) **Personal Vehicle** – When a city vehicle is not available, a personal vehicle may be authorized for use. Mileage for use of personal vehicle when traveling to or from a training or work location other than the employee's regular work location is reimbursed at the rate established by the Internal Revenue Service, based on a statement from the employee as to number of miles traveled. All mileage must be computed from the employee's regular work location, or from home, if the employee's home is closer to the destination. For purposes of this policy, the term "regular work location" means the work location from which the employee departs for the regular performance of official duties.
- c) **Airplane/Other** – travel by any means other than by City-owned vehicle or personal vehicle must be approved by the City Administrator, regardless of whether the travel is in-state or out-of-state and regardless of the distance of the travel from the City of Brainerd. Reimbursement for travel by bus, airline train, taxi service, car service, rental car, or other mode of consumer transit will be at the actual rate charged (which must be the lowest rate available for the mode transportation in question). No payment will be made without a receipt accompanying the voucher.
- d) **Other related costs** – Reasonable parking fees, car rental, and fares for rail, bus, taxis and shuttles are all subject to reimbursement if related to City business. Taxis and shuttles reimbursement may include a maximum gratuity of 20%. Gratuities in excess of 20% will not be reimbursed by the City. A standard model sedan shall be used when renting a car unless unusual circumstances dictate otherwise.

2) **Lodging**

The City will reimburse the reasonable cost of lodging for training, seminars or conventions of two or more days generally if the event site is **outside a 50-mile radius** of Brainerd. All lodging expenses will be paid based upon receipt from the motel or hotel. The City will reimburse for lodging at the lowest rate for a single occupancy room. All hotels or motels must be approved by the City Administrator or applicable BPU Department Head (or designee) prior to booking.

An increase in lodging rate due to family members staying is not reimbursable. The employee will be reimbursed only the cost of a single occupancy room. All lodging reimbursements are subject to a maximum amount determined by the City Council and identified in the City's expense reimbursement form.

Lodging reimbursement will not be approved for lodging in the event the traveling employee could arrive at the destination on time by leaving Brainerd by 6:30 AM nor will reimbursement be approved if the employee could return to Brainerd by 9:00 PM. No reimbursement for lodging or time will be approved in the event the traveling employee elects to drive a personal vehicle in lieu of City recommended air travel. Entertainment expenses incurred will not be reimbursed, such as in-

room movies, mini-bar and optional entertainment-type events including golf, gambling etc. that may be provided at conferences.

3) **Meals**

The City will reimburse the cost of job-related meals if an employee's travel is outside of the Brainerd/Baxter area or if a business meeting is held during typical meal hours. The following guidelines are in place for eligibility of reimbursement for a meal:

Breakfast: The employee is in travel status before 6:00 AM
Lunch: The employee is in travel status between the entire time of 11:00 AM and 1:00 PM
Dinner: The employee is in travel status until 8:00 PM

- a) Meetings scheduled and held during typical meal hours do not automatically necessitate that a meal will be provided at City expense. *The departmental issued credit card shall not be used to pay for meals.*
- b) The maximum amounts per meal and per day attached to the expense reimbursement form apply to the meal, non-alcoholic beverage, sales tax and gratuity.
- c) Gratuities paid by the employee over 20% will not be reimbursed.
- d) Payments for meals cannot be combined in any fashion in order to reimburse an employee for a meal costing more than the maximum amount listed per specific meal. For example, an employee cannot decline a breakfast and/or lunch reimbursement to justify reimbursement of a \$60 dinner.
- e) Meals included as part of a conference, convention, or similar program will be paid in full, whether those meals are included in any registration or tuition fees or presented as a separate charge, and regardless of whether the cost exceeds the established maximum. All such expenses must be approved in advance by the applicable Department Head prior to registration. The Department Head will notify the City Administrator upon approval of any such expenses. Employees are expected to take advantage of meals provided by the conference or seminar. The City will not reimburse an employee for a purchased meal when a meal was provided by the event.
- f) If more than one employee is present at a job-related meal, one employee may pay for the entire meal cost of all employees. The reimbursement request shall clearly identify each employee present for the meal and each employee for whom the employee purchased a meal.
- g) If non-city personnel are present at a job-related meal, the city may reimburse the paying employee for the cost of the meal(s) of the individual(s) if an itemized receipt and a form indicating who attended, where the meal was held and the city-related purpose for the meal is submitted and approved by the Department Head and City Administrator. Reimbursement of a non-employee's meal is subject to the same dollar limit as the employee.

- h) When family members are present for a meal and the employee is claiming reimbursement for his/her meal, a separate detailed receipt for the employee's meal shall be requested.

4) Registration or Membership Cost

The City will reimburse the costs for registration, training and membership incurred to attend conferences, seminars and training sessions. A check request or credit card receipt shall be submitted to the City's accounts payable department prior to the event for payment of this type of cost, in addition to obtaining the other approvals required by this Policy. The request shall include the necessary documentation evidencing the amount payable. A departmental credit card may also be used for payment based upon receipt of all necessary travel approvals prior to making payment. Departments shall strive to utilize any early registration discounts, when available.

5) Non-Reimbursable Meal and Travel Costs

- a. Alcoholic beverages – whether consumed by an employee or a non-employee
- b. Gratuities exceeding 20%
- c. Snacks and other food/beverages outside of the daily meal reimbursements
- d. Meals or events for spouses or family members traveling with an employee
- e. Meals when an event provides for a meal
- f. Private automobile expenses, including gas, oil, repairs
- g. Traffic citations or fines
- h. Travel between an employee's home and work facility
- i. Entertainment expenses
- j. In-room movies, mini-bar or other hotel services not required for City business
- k. Optional entertainment events unless included as part of the overall conference registration fee (e.g. optional golf, sporting events, concerts, and other performances)
- l. Personal losses incurred while on City business
- m. Other costs that are not directly related to City business, as determined by the City Administrator

City Representation

Employees shall be aware at all times that they are representing the City while traveling out-of-town for official City business. Employees given the opportunity to be away from their regular work site are expected to perform in a similar manner as if they were still at work, including following all applicable City policies as if they were at their regular work site. An employee's conduct during a work-related trip or while otherwise representing the City will be treated as if it occurred during regular working hours and at the regular work site. At no times shall alcoholic beverages be consumed by any person(s) driving or riding in a City vehicle.

Section 22.02 Prescription and Non-Prescription Safety Glasses

The City will pay the cost of prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions, up to a maximum of the base cost as stated in the City's agreement with a local vision provider(s). The employee is responsible for all other costs associated with obtaining the prescription, including eye examination.

The City will provide non-prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions.

Section 22.03 Safety Boot Policy

The City will pay annually up to 50% of the cost for safety boots for employees required by OSHA regulations to wear same in performing their work functions.

Section 22.04 Damage to Personal Items

An employee's personal items, such as watches and prescription eyewear, which are damaged or destroyed during the course of his/her work shall be reimbursed by the City for the value of the item damaged or the cost of the repair, if possible, up to \$450 per employee in a three (3) year timeframe. In order to receive such reimbursement, the employee must submit a detailed statement describing the item, how it was damaged, whether the employee believes it to be reparable, how the employee determined the value of the item, and any estimated costs of repair.

Section 22.05 Cold Weather Outerwear

Some employees may be required to work outdoors in cold weather for extended periods of time. The City will furnish each such employee one set of insulated cold weather outerwear at a frequency of no greater than once every 36 months, unless damaged beyond repair, as determined at the discretion of the Department Head. The cold weather outerwear will consist of three pieces - a coat, a vest, and a bib overall, and will be insulated brown duck canvas or ANSI, with a City of Brainerd insignia (or BPU insignia, as appropriate) on the coat. The employee will be responsible to keep his or her cold weather outerwear clean and in good repair at all times. The cold weather outerwear shall be kept at work at all times, except for the purpose of cleaning and/or repair to the outerwear.

Section 22.06 Personal Cell Phone Stipend

Employees whose work requires the use of a cell phone and who have been designated to receive a cell phone stipend by the City Council, or designee in their sole discretion will receive a monthly stipend in the amount determined by the City Administrator. At this time, no additional employees will be granted permission for this benefit. Employees receiving a stipend are responsible for:

- A. Providing proof of purchase/lease of cell service, and other documents prescribed by the City to activate and maintain stipend payments, at intervals to be determined by the City Administrator;
- B. Purchase, replacement, repair, or service or operational questions of the phone will be the responsibility of the employee and at the employee's sole expense;
- C. Using a secure password, PIN, or gesture to prevent unauthorized access;
- D. Procuring and maintaining cellular service from a reliable carrier who provides service in the City service area;
- E. Limiting personal use of the cell phone during work hours so as not to interfere with City business or the performance of the employee's job;
- F. Agreeing that their cell phone may be physically or remotely accessed, tracked, modified, or wiped based on City security needs.

The cell phone stipend is intended to cover approximate costs of the employee's cell phone expenses related to work duties. Initial purchase of the cell phone, accessory equipment, and activation fees will be the responsibility of the employee, as will maintenance, insurance, and repair costs (if any). The employee will pay any and all costs exceeding the amount of the cell phone stipend. No stipend will be paid when an employee is in an unpaid leave status for more than 30 days or duties change in such a manner which no longer justifies the payment.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal e-mails, text messages, and social media messages created, received, collected, maintained, or generated on an employee's personal cellular device by virtue of his or her position with the City are subject to those laws.

Section 22.07 Approval of Expenses

Employees shall submit an expense reimbursement claim no later than **60 days** from the date the expense was paid or incurred. Requests for reimbursement must be accompanied by a signed Employee Expense Reimbursement Form, as updated from

time-to-time by the City. As discussed in this Policy, detailed, itemized receipts and other information shall be submitted with the claim for reimbursement, depending on the type of expense.

The City shall annually and periodically provide an updated Employee Expense Reimbursement Form. This form shall be used for all reimbursement requests related to approved travel or work-related expenses paid by an employee.

- 1) **Detailed Receipts** – each item submitted for City reimbursement must be supported by an itemized receipt indicating a reasonable explanation for the expense. All receipts shall be attached to each reimbursement request.
 - a. Meals will be reimbursed based on a detailed itemized receipt. When a credit card is used to purchase the meal, both an itemized receipt and a credit card charge slip indicating the tip amount shall be submitted.
 - b. Receipts for parking and taxis may not be available and may be submitted for reimbursement without a receipt.
 - c. Mileage reimbursement for the use of a personal vehicle shall detail not only the mileage but also the location traveled and the business reason for travel.
 - d. Proper departmental expense codes shall be used for each line item.
 - e. Unsupported expenses will not be reimbursed. If an employee is unable to get a detailed receipt or the receipt is lost, a signed statement by the employee detailing the purchased item, the business reason for the expense and certifying that the claim is accurate must be submitted and approved by the Department Head. A copy of the employee's credit card statement may also be provided to help support the dollar amount being reimbursed.
- 2) Employees shall submit an employee expense reimbursement form with all necessary supporting documentation to the appropriate Department Head or designee for review.
- 3) The expense form will be routed through the Accounts Payable process for payment and approval. Any issues will be communicated back to the employee for correction/clarification.
- 4) The Finance department will make necessary corrections to reimbursement requests for mathematical errors, gratuities in excess of 20%, to remove any alcoholic beverages and other changes that may be necessary to comply with this policy.
- 5) Reimbursement will be made with the next City Council check register, or payroll if the meal reimbursement is taxable.

Signing an expense voucher or request for reimbursement certifies the truth and correctness of the expense incurred. Knowingly submitting a false or inaccurate expense voucher, receipt, request for reimbursement, or other record may result in discipline, up to and including termination.

ARTICLE 23. DRUG-FREE WORKPLACE/ALCOHOL ABUSE POLICIES

Section 23.01 Drug-Free Workplace/Alcohol Abuse

It is the policy of the City to provide a drug-free environment. The City's goal is to establish and maintain a healthy and efficient workforce free from the effects of drug and alcohol abuse in compliance with the requirements of the federal Drug-Free Workplace Act of 1988 (as amended) and other applicable law. This requires employees abstain from using alcoholic beverages, mood-altering drugs, and drugs that adversely impact performance, prior to the start of their workday, during the work period, during lunch and other work breaks. Any violation of this policy shall result in disciplinary action, up to and including discharge.

- A. The use of alcohol and the illegal use of drugs by an employee on duty can result in a dangerous work environment by negatively affecting job performance and the ability to function safely at work.
- B. The unlawful manufacture, distribution, transfer, possession, or use of drugs while on duty is strictly prohibited. Any such use may justify immediate discharge regardless of job performance.
- C. Intoxication, possession, and unauthorized use of alcohol while on duty is also prohibited and may justify immediate dismissal regardless of job performance.
- D. Tolerance may be shown to an employee expressing a desire and willingness to receive treatment for their drug or alcohol use.
- E. Human Resources will provide any employee, upon request, information regarding alcohol abuse and drug dependency as well as information on available treatment programs.
- F. Confidentiality will be maintained, to the extent permitted by the Minnesota Government Data Practices Act and other applicable laws.
- G. It is the responsibility of the employee to correct his or her unsatisfactory behavior or job performance resulting from drug or alcohol use.
- H. The Human Resource Director must be notified by the employee no later than five (5) calendar days following any criminal drug statute or alcohol related conviction for a violation occurring in the workplace or any arrest or conviction of any criminal drug or alcohol offense.

- I. Violations of this policy may constitute cause for discipline, up to and including discharge. Each situation will be evaluated on a case-by-case basis depending on the severity and circumstances involved.

The City recognizes drug and alcohol abuse as potential health, safety and security problems. Employees needing help in dealing with drug and alcohol problems are encouraged to make use of the medical resources available through their health insurance plans.

Section 23.02 Drug & Alcohol Testing

The City has adopted Drug and Alcohol Testing Policies, separate from the Employee Policy Manual, covering employees required to hold a commercial driver's license (CDL) or a non-commercial driver's license (non-CDL) to perform their job duties and other employees. All employees are required to sign a document that states that they have received a copy of the policy. Each employee must review the document and abide by its provisions. Copies can be obtained from the City Administrator's office and the Human Resource Director's office.

Section 23.03 Drug-Free Awareness Program

To assist employees in understanding the perils of drug and alcohol abuse, the City has established a Drug-Free Awareness Program. This drug and alcohol policy constitutes the City's drug-free awareness program and fulfills the notification requirements of the federal Drug-Free Workplace Act of 1988 (as amended). The City will use this program as an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace. The program will inform employees of the dangers of drug and alcohol abuse, explain the City's Drug and Alcohol Policy and the sanctions imposed for its violation, and highlight any treatment, counseling, and rehabilitation referral services that may be available to employees in the City. Nothing set forth in this policy is intended to conflict with state law.

An employee convicted of a criminal drug offense committed in the course of employment will be subject to appropriate disciplinary action and/or required to complete successfully an appropriate rehabilitation program at the employee's own expense unless provided to the employee through insurance coverage. The City, in its sole discretion, shall determine what disciplinary action is appropriate.

Section 23.04 Tobacco Use

A. PURPOSE

The City has established this policy regulating tobacco use in City-owned buildings and vehicles:

1. To comply with the Minnesota Clean Air act.
2. To respond to the increasing evidence that tobacco use creates a danger to the health of persons who use tobacco as well as persons who are present in a smoke-filled environment.
3. To promote a safe and healthy environment for staff and citizens and to set an example to the community in limiting tobacco use.

B. STATEMENT OF POLICY

1. All City-owned buildings and vehicles shall be tobacco-free which includes smoking, as defined by Minnesota Statutes, ARTICLE 144.413, as amended, the use of tobacco products and electronic cigarettes, as defined in Minnesota Statutes, 609.685, as amended. Park shelters are exempt from this policy to the extent provided by applicable law.
2. Tobacco use is prohibited within all City-owned buildings, this includes employee workstations, employee break areas, reception areas, storage areas, hallways, meeting rooms and all other areas inside buildings not specifically mentioned herein.
3. Within City-owned vehicles, smoking and other tobacco use is prohibited by any and all occupants.
4. All individuals on City premises share in the responsibility for adhering to and enforcing this policy. The responsibility for compliance is shared by employees, Supervisors, and the general public.
5. Employees hosting visitors are expected to inform them of the City's tobacco free policy.
6. Information on approved smoking cessation programs is available to City staff by the Human Resource Director.
7. Complaints of violation of the policy should be directed to the Department Head responsible for the particular work area or facility involved in the complaint. The Department Head shall be responsible for notifying the violator of the pertinent portions of this policy. Failure to comply with the policy may result in discipline, up to and including immediate termination, if the violation is committed by an employee, or may result in the individual being asked to leave the City's premises, if the violation is committed by a member of the public.

ARTICLE 24. EMPLOYEE SAFETY MANUAL

The City has adopted an Employee Safety Manual, separate from the Employee Policy Manual. All employees are required to sign a document that states that they have received a copy of the manual. Each employee must review the manual and abide by its provisions. Copies can be obtained from the City Administrator's office or the Human Resource Director's office.

ARTICLE 25. POLITICAL ACTIVITY

City employees have the right to vote as they please, to express their personal opinions on political subjects in their capacity as individuals and retain membership in political parties.

An employee may be a candidate for partisan or non-partisan public office provided that no employee shall campaign for such office during actual hours of work. City employees' political activity may be subject to state and federal laws including, but not limited to, the federal Hatch Act, the Minnesota Fair Campaign Practices Act, and Minnesota Rules part 9575.0080, and all amendments thereto.

No employee will be permitted to express any view on any legislative protocol, candidate for office, elected official, or other topic on behalf of the City unless expressly approved to do so by the City Council or designee. Any and all lobbying activities undertaken, or purportedly undertaken, on behalf of the City must be approved in advance by the City Administrator and comply with the City's expectation and direction for such activities.

The City prohibits employees from participating in political activities on City time, using City resources, or while performing City functions, except as required by law. Employees must not identify themselves as a City employee by either appearance or declaration while expressing personal political opinions.

ARTICLE 26. HARASSMENT

It is the policy of the City that harassment and inappropriate conduct of employees is prohibited. The City seeks to promote a professional work environment where employees can perform their jobs free from abuse by others. This policy applies to all of the City's employees while performing their duties as employees within or outside the workplace. For purposes of this policy, employees include all individuals who are hired, elected, appointed, or contracted to provide services to the City.

Harassment is unwarranted and unwanted verbal or nonverbal conduct which threatens, intimidates, or insults another person, where such conduct has the purpose or effect of creating an offensive, intimidating, or degrading environment, or interferes with or adversely affects a person's work performance based on race, creed, color, religion, age,

sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

Harassment does not include the conduct or actions of Supervisors intended to provide employee discipline, such as deficiency notices, performance evaluations, oral warnings, reprimands or other supervisory actions intended to promote productive performance.

A. STATEMENT OF POLICY

It is the policy of the City that harassment will not be tolerated. All employees are prohibited from engaging in the harassment of any other employee or other person in the course of or in connection with employment. The desired standard of employee behavior is one of cooperation and respect for each other, despite any differences. Employees have a right to a workplace free of verbal and/or physical harassment.

B. SEXUAL HARASSMENT

1. Definition

For purpose of this policy, sexual harassment is defined as physical or verbal conduct relating to an individual's gender or directed at an individual because of gender, unwelcome sexual advances, request for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual or gender-related nature when:

- a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or continuing employment or a basis for employment decisions affect that individual; or
- b. submission to or rejection of that conduct or communication by an individual is used as a factor in any employment decisions affecting the individual or decision related to the individual's access to public services or public accommodations affecting said individual; or
- c. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public service, or public accommodation, or of creating an intimidating, hostile or offensive employment environment.

A single act or communication may constitute sexual harassment.

2. Examples of Conduct that can Constitute Unlawful Sexual Harassment

Examples of sexual harassment include, but are not limited to, the following:

- a. Unwelcome subtle or overt pressure for sexual activity.
- b. Repeated, unwelcome suggestions regarding, or invitations to, social

engagements or work-related social events.

- c. Verbal abuse or innuendo of a sexual nature.
- d. Unwelcome physical contact such as touching, hugging, patting, pinching, pawing, poking, or slapping.
- e. Any unwelcome sexual or sexually motivated touching.
- f. Comments of a sexual nature about an individual's body or sexual terms used to describe an individual.
- g. Display or distribution of sexually suggestive or sexually explicit objects or pictures, including cartoons, articles, pictures, and other graphics which have a sexual conduct and which are not necessary for work.
- h. Jokes or remarks of a sexual nature to, or in the presence of, people who may find them offensive.
- i. Prolonged staring or leering at a person.
- j. Use of suggestive facial expressions, gestures of a sexual nature, or sexually suggestive or insulting sounds.
- k. Any demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment or other indication, express or implied, that an employee's job security, assignment, opportunities for advancement, or other terms or conditions of employment may depend on the granting of sexual favors to any other employee, supervisor, elected official, or manager.
- l. Any action relating to an employee's job status, which is taken as a direct result of the granting or refusal of social or sexual favors.
- m. The deliberate or careless creation of an atmosphere of sexual harassment or intimidation.
- n. Indecent exposure.
- o. Other physical or verbal conduct directed at another because of sex or gender.

Normal, courteous, mutually respectful, pleasant, non-coercive interactions between people that are acceptable to both parties are not considered to be sexual harassment.

C. OTHER PROTECTED CLASS HARASSMENT

Other protected class harassment is offensive conduct or communication based on an individual's race, color, creed, religion, national origin, sexual orientation, disability, age, marital status, familial status, status with regard to public assistance, or any other characteristic protected by state or federal law when:

1. Submission to such unwelcome conduct or communication is made either explicitly or implicitly as a term or condition of obtaining or retaining employment or access to public services or accommodations;
2. Submission or rejection of such unwelcome conduct or communication by an individual is used as a factor for any employment decision or decision related to the individual's access to public services or public accommodations affecting said individual; or

3. Such unwelcome conduct or communication has the purpose or effect of substantially interfering with any person's employment, public services or public accommodation, or creating an intimidating, hostile, or offensive work environment.

D. Department Head/Supervisory Responsibilities

Department Heads and Supervisors are responsible for maintaining a work environment free of sexual harassment and other protected class harassment. It is their responsibility to ensure that all employees comply with the City's Policy. Department Heads and Supervisors must respond promptly and appropriately to both allegations and confirmed reports of harassment.

In the absence of a complaint, Supervisors and Department Heads observing conduct that may constitute prohibited harassment in the workplace are responsible for calling such behavior and this policy to the attention of the participants at the time of the observance. A written summary of the discussion shall immediately be forwarded to the City Administrator.

Supervisors and Department Heads receiving complaints or reports of alleged inappropriate conduct shall immediately forward a report to the City Administrator prior to taking any action on the complaint. The City Administrator or designee will make the determination as to whether, and to what extent, an investigation is warranted, who will investigate, and what methods will be used in the investigation.

Failure of a supervisory employee to immediately forward reports of observances or complaints to the City Administrator shall be grounds for disciplinary action, up to and including termination of employment.

E. Employee Responsibilities

All City employees are expected to treat all other employees and the public with respect and to comply with this policy. Any employee found to have violated this policy will be subject to appropriate disciplinary action, up to and including discharge from employment.

F. Complaint Procedure

Any employee who believes he or she is being subjected to sexual harassment or other protected class harassment in any form, or any employee with knowledge or belief of conduct on the part of another employee or other individual which may constitute a violation of this policy, is required to report the alleged conduct immediately to a Supervisor, the Department Head, or the City Administrator. While the City encourages written reports of the alleged conduct, verbal reports will be accepted. The individual receiving the report should be prepared to supply the following information:

1. Date, time and location of incident
2. Identification of the offender(s)
3. A detailed description of the incident
4. Any materials in the complaining employee's possession related to the incident (e.g. cartoons, articles, pictures)
5. Identification of any potential witnesses to the incident

Additionally, at the time of the incident, if you are the employee being subjected to the inappropriate behavior and feel comfortable in doing so, you may, but are not required to, courteously, but firmly, tell the individual(s) engaging in the inappropriate behavior to stop the behavior because the behavior makes you feel intimidated, offended or uncomfortable. Include a summary of this discussion in your report to the Supervisor or City Administrator.

Any Department Head or other supervisory employee who receives a formal or informal, oral or written report of harassment shall inform the City Administrator immediately without screening or investigating the report, unless the City Administrator is involved or has a conflict of interest, in which case the report shall be made to the Mayor pursuant to the reporting procedures. Failure of any supervisory employee of the City to forward such a report to the appropriate party shall be grounds for discipline.

By the authority of the City Council, the City Administrator, upon receipt of a report or complaint of sexual harassment or other protected class harassment, shall undertake or authorize an investigation. The investigation may be conducted by City Officials or by a third party designated by the City.

The City may take immediate steps, at its discretion, to protect the complainant and other employees or members of the public pending completion of the investigation.

The investigation methodology will be determined by the investigator depending on the specifics of each complaint. Investigations typically include, at a minimum, interviews with the reporting employee, the complaining employee (if different from the reporting employee) and alleged offender(s). The investigation methodology may additionally include additional interviews, document review and other methods deemed pertinent by the investigator.

G. Confidentiality

Records maintained pursuant to this policy are subject to the Minnesota Government Data Practices Act, the Minnesota Records Retention Act, and other applicable laws. Subject to those laws, every effort shall be made to respect the privacy of the parties to a complaint, without compromising the thoroughness of the investigation.

H. No Reprisal for Filing Complaint of Harassment

The City will not tolerate acts of retaliation against employees who have made a good faith report of suspected violations of this policy or any person who assists in the investigation of such a complaint regardless of the outcome of such investigation. The City will discipline or take other appropriate action against any employee who engages in acts of retaliation toward these individuals. For purposes of this policy, retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

I. Disciplinary Procedure

1. An employee who violates this policy will be subject to disciplinary action up to and including discharge.
2. Any employee who prevents or attempts to prevent an individual from reporting a suspected violation of this policy or who interferes in any way with the investigation of such a report will be subject to disciplinary action, up to and including discharge.
3. Any employee who retaliates or discriminates against an individual who reports a suspected violation of this policy or assists in the investigation of such a report will be subject to disciplinary action, up to and including discharge.
4. Supervisor, managers, or Department Heads who become aware of violations of this policy in their department, even in the absence of a formal complaint, shall take appropriate disciplinary action, in consultation with the City Administrator.
5. Any non-employee found to have violated this policy may be removed from the City property or other appropriate action may be taken.

The Data Practices Act may allow individuals who are not directly involved with the complaint to access records related to the complaint in certain circumstances.

ARTICLE 27. GRIEVANCES

It is the policy of the City insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur. For purposes of this policy, a grievance is defined as a dispute or disagreement as to the interpretation or application of the City's personnel policies.

Employees shall have the right to present grievances either individually or as a group. Grievances shall be presented to the City Administrator in writing, within five (5) calendar days of the occurrence of the alleged grievance.

The City Administrator shall respond to an employee's grievance within fourteen (14) calendar days after receiving the alleged grievance. The decision of the City Administrator is final, except that when the City Administrator is directly involved in the grievance, appeal may be made to the Personnel and Finance Committee for final decision within fourteen (14) calendar days of the City Administrator's decision. In such an appeal, the Personnel and Finance Committee's decision is final. In the event that the City Administrator does not respond to the grievance within fourteen (14) calendar days of receipt, the grievance shall be considered denied for purposes of the appeal time period discussed above.

In compliance with federal or state law, an employee may also grieve any alleged unsafe act or practice, adverse working conditions, violation of civil rights, and alleged hazardous materials management.

Concerns that employees have cannot go directly to individual members of the City Council. The City Council acts as a body and not as individuals and going directly to the City Council with problems is inappropriate. Likewise, for individual Council members to be giving direction to staff without the knowledge of the City Administrator is inappropriate. Again, the City Council gives its direction, as a policy making body, to the staff through the Administrator.

ARTICLE 28. DISCIPLINE AND DISCHARGE

Section 28.01 At-Will Employment

City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities, including failure to observe proper workplace conduct adopted by the City Council. It is the policy of the City to administer disciplinary penalties without discrimination. Except for probationary employees and as expressly described in this Policy, employees may use the grievance procedure as per the personnel policy with respect to any disciplinary action. To the extent feasible, the supervisor or department head shall gather relevant information before reporting the incident to the Human Resource Director. At the direction of the Human Resource Director, the supervisor or department head may gather additional relevant information and investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

Nothing in this Policy shall be interpreted as altering the City employees' status as "at-will" employees or creating any type of "just cause" standard for discipline or termination. When determining whether to impose discipline, including termination, the City may consider all relevant factors, including, but not limited to, the seriousness and frequency of misconduct, and the employee's discipline history.

Grounds for discipline and discharge will include, but is not limited to the following:

- A. Incompetence, ineffectiveness, or inefficiency in the performance of duties;
- B. Criminal conduct which would constitute a felony, gross misdemeanor, or misdemeanor except as limited by Minnesota Statutes, Chapter 364;
- C. Violation of any City policy, procedures, work rule, regulation or City ordinance, including the provisions of this manual and any safety and/or health policies and procedures;
- D. Being under the influence of alcohol, drugs, or controlled substances while performing duties for the City, while on City premises, or while acting as a representative of the City off premises;
- E. Discourteous, hostile, insulting, abusive, or inflammatory conduct toward the public, a fellow employee or fellow employees, a supervisor or supervisors, a member of the City Council or members of the City Council, or a member of any City commission, or members of any City commission;
- F. Theft, misuse, carelessness and/or negligence in the handling or control of City property or property entrusted to the employee by the City, including allowing unauthorized persons to ride in City vehicles, or the unauthorized appropriation of City property for the employee's own use;
- G. Inducing or attempting to induce a person, officer or employee of the City to commit an unlawful act or to act in violation of any City policy, procedure, regulation, ordinance, or workplace directive or order;
- H. Dishonesty in the performance of duties;
- I. Sleeping during work hours;
- J. Willful misconduct or insubordination;
- K. Acceptance of a gift under circumstances from which it could be inferred that the giver expected or hoped for preferred or favorable treatment in conduct of City business;
- L. Unapproved use of paid work time and/or equipment in outside employment or for personal benefit;
- M. Falsely stating or falsely making claims of injury or illness;
- N. Gambling while on duty, on City property, or using City equipment or resources;

- O. Inability to perform the essential functions of the employee's job, whether due to physical or mental impairment, or otherwise;
- P. Any possession, sale, distribution, possession, or unauthorized use of alcohol or controlled substances, during working hours and/or while representing the City;
- Q. Unexcused absence from work;
- R. Tardiness in reporting to work;
- S. Improper reproductions or misuse of copyrighted materials;
- T. Theft of City property or personal belongings of others;
- U. Abuse of official position with the City to achieve personal, political, or financial gain;
- V. False or inaccurate claims for reimbursement of expenses;
- W. Disorderly, abusive, or indecent conduct that causes disruption of the work environment, including fighting;
- X. Unauthorized possession of weapons on City property;
- Y. Allowing unauthorized visitors into unauthorized City offices and locations;
- Z. Unauthorized disclosure of private, confidential, or nonpublic data;
- AA. Failure or refusal to comply with City or department regulations, policies, or procedures; and
- BB. Any other conduct which, in the discretion of the City, constitutes a breach of the standards of behavior which it should reasonably expect of its employees.

Employment at the City may be terminated at the will of either the employee or the City, at any time, and for any legal reason or no reason.

Section 28.02 Procedures

- A. Discipline may be in one or more of the following forms, although **the City of Brainerd reserves the right to take any disciplinary action at any time:**
 - 1. oral reprimand;
 - 2. written reprimand;

3. suspension;
 4. demotion; or
 5. discharge.
- B. Suspension, demotion and discharge will be in written form and will state the reasons for such action.
- C. Reprimands, notice of suspension, and notice of discharge are to become part of an employee's personnel file. The employee will receive a copy of any reprimands and/or notices.
- D. Employees receiving a written reprimand, suspension, demotion, or discharge shall be given a copy of the discipline document and sign the original, acknowledging that he or she has received the written reprimand, suspension, demotion, or discharge. The signature of the employee does not necessarily indicate that he or she agrees with the disciplinary action. If the employee refuses to sign the original written reprimand, suspension, demotion, or discharge, such refusal will be noted on the discipline document. All written discipline will be placed in the employee's personnel file.
- E. Consistent with applicable law, employees may examine their own individual personnel files at reasonable times under the direct supervision of the City Administrator or designee.

Section 28.03 Supervisory Authority

- A. Oral and Written Reprimands. Department Heads have the authority to impose oral and written reprimands without prior approval of the City Administrator. The Department Head must maintain a record of each verbal reprimand. A verbal reprimand may not be appealed or submitted through the grievance process.
- B. Suspension. The City Administrator may suspend an employee.
- C. Demotion and Discharge. An employee may be demoted or discharged by recommendation of the City Administrator and final determination by the City Council.

Section 28.04 Right of Appeal

An employee may appeal an oral or written reprimand verbally or in writing to the City Administrator within five (5) work days after disciplinary action has been imposed. The City Administrator will make the final determination and will inform the employee in writing regarding the decision made.

An employee may appeal a suspension without pay, or recommendation for demotion or discharge to the City Council by requesting, in writing, that a hearing be conducted for that purpose. Such request must be made by the employee to the City Administrator within five (5) days after disciplinary action has been imposed. At its sole discretion, the City Council may hold the hearing at its next regularly scheduled meeting or any date within thirty (30) days of such meeting. The City Council has the sole discretion to conduct the hearing or to appoint a subcommittee to conduct the hearing. If the City Council appoints a subcommittee, the subcommittee shall make its recommendation to the City Council at the next regularly scheduled meeting of the City Council following the hearing. The decision of the City Council will be final.

If the appeal is upheld by the City Council, the employee shall receive all payments, benefits and service accrual which the employee would have earned during the period of suspension without pay, demotion or discharge and be reinstated to the position.

For purposes of the Minnesota Government Data Practices Act, the initial disciplinary decision constitutes the final disposition of a disciplinary matter, unless the employee files a timely appeal with the City Council. In such cases, the City Council's decision constitutes the final disposition.

ARTICLE 29. ACCIDENT PROCEDURES

As a City employee, it is important that you are aware of certain procedures to be followed if you are injured on the job or involved in an accident while operating City equipment. These procedures have been established to protect your interests as an employee, as well as protect the City.

Employees shall comply with all federal and state laws and rules concerning vehicles and their safe operation. Safety devices, such as seat belts, lights, horns, etc., shall be utilized.

Compliance with speed limits, safe driving procedures, and proper licensing requirements will be enforced by the City.

Employees are responsible for performing routine checks (i.e., tire pressure, oil, turn signals, lights) before operating a City-owned vehicle.

If you are involved in an accident while operating any City-owned vehicle or piece of equipment, or while engaged in City business with any hired or privately-owned vehicle:

- A. Notify the police and/or emergency medical services, as appropriate, by dialing 911, and your supervisor IMMEDIATELY.

- B. Request that all parties and property concerned remain at the scene of the accident, if possible, until a law enforcement representative has released them.
- C. Obtain identifying data from the driver of the other vehicle (i.e. name, address and insurance company).
- D. Secure names and addresses of injured persons and any witnesses to the accident.
- E. Employee responsibility is to refrain from making statements regarding the accident with anyone other than the investigating law enforcement representative, appropriate City officials, and representatives of his or her own insurance company, if the employee's privately-owned vehicle is involved. Statements made to investigating authorities should be confined to factual observations. A copy of all police reports and any statements attached thereto will be forwarded to City Administration or designee within one day of receipt by the employee(s) involved in the accident.
- F. Employees shall refrain from admitting fault or liability and must gather all applicable loss data, witnesses, injured parties, passenger names, vehicle and driver's license numbers.

Employees who sustain personal injury or illness in any work-related accident are **REQUIRED** to report the injury to their supervisor immediately (no matter how minor). Once your supervisor has been notified of an accident, he/she will inform you of the steps to be taken to properly report and record the occurrence. Your supervisor may also direct you to proper medical attention where necessary. If it is necessary for you to complete an "Employee Incident" form, it should immediately be completed and returned to your supervisor. If it is necessary for you to miss work because of a work-related accident, it is your responsibility to keep your supervisor informed of the date you are able to return to work. In most instances, your treating physician will provide you with that information during your initial visit.

Please remember that following these simple procedures not only ensures accurate record keeping of accidents and personal injuries as required by law, but also protects your interests as an employee. For your own protection, be sure to report any accidents and injuries you may have, no matter how small.

Employees using a City-owned vehicle may be held liable for accidents in which he or she is involved. Employees will be personally responsible for paying any citation or other criminal sanction received while operating a City-owned vehicle.

ARTICLE 30. STATEMENT OF POLICIES AND PROCEDURES FOR PAYMENT AND/OR REIMBURSEMENT OF COSTS AND ATTORNEY'S FEES FOR MUNICIPAL OFFICERS AND EMPLOYEES

The City may reimburse its employees or officers for costs and reasonable attorney's fees incurred by an employee or officer, to the extent permitted by Minnesota Statutes, ARTICLE 465.76.

ARTICLE 31. TECHNOLOGY USE

General Information

This policy serves to protect the security and integrity of the City of Brainerd's ("City") electronic communication and information systems by educating employees about appropriate and safe use of available technology resources. All employees are responsible for reading and following information that may be distributed from time-to-time about appropriate precautions to protect City systems.

City-owned computers, cellular telephones, mass storage devices, and related equipment used by City employees are property of the City. Except when accessed by the police department for law enforcement purposes, the City specifically reserves the right to audit, monitor, and inspect, without notice, without the user's consent, and for any reason or no reason, employees' use of its computers and related equipment and all data, emails, files, settings, or any other aspect of a City-owned computer or related system, including personal information created or maintained by an employee. An audit may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation.

All City owned equipment, including, but not limited to, computers, laptops, telephones, mobile devices, field electronics, mass storage devices, e-mails, voice mail, text messages on City paid cellular telephones, or any other type of equipment provided are City property. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion. City employees and other users shall have no expectation of privacy in any property or equipment of the City.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal messages and internet logs, created, received, collected, maintained, or generated by City employees or using the City's computer and/or related equipment are subject to those laws. In accordance with applicable law, such files and documents may be disclosed in certain circumstances

without the permission of the employee or user.

Users should notify IT staff upon learning of violations of this policy. Violation of this policy may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation. All violations will be addressed consistent with the City's Personnel Policies or applicable union contract.

Data Privacy and Retention

All data stored on computers, related equipment, and media owned, leased or rented by the City is considered to be owned by the City and is subject to the MGDPA, which governs its use and dissemination. All city owned equipment and Information Technology Systems, including e-mail, are City property and subject to inspection by the City at any time, without notice, and for any reason or no reason at all. The City Administrator or Human Resource Director should be contacted with questions regarding the classification of public and private data.

Data Ownership: All information developed or introduced to a City computer or related equipment by a user in conjunction with employment with the City is the property of the City.

Data Storage: All City data must be saved to a network drive on a City server or City provided resource.

Data Deletion: Users are responsible for deleting outdated files that are no longer needed for compliance with the City Records Retention Schedule; this includes data files and email messages that do not need to be retained in accordance with the City's Records Retention Schedule. The City Administrator should be contacted with questions regarding the City Records Retention Schedule.

Data Back-up: The IT department backs up most data stored on network servers or cloud storage. Workstation hard drives or any other devices are not backed up and are subject to failure and may result in permanent data loss.

Personal Use

The City offers employees the privilege of limited personal use of City-owned computers and related equipment. Personal use is allowed under the following guidelines and only during break times or before/after normal paid working hours:

- Only City employees may use City-owned equipment. Family members or

friends of City employees are not allowed to use City equipment or technology resources.

- Employees shall not connect personal peripheral tools or equipment (such as cell phones, USB drives, flash drives/cards, disks, digital cameras, or printers) to City-owned systems, without prior approval from IT staff. If permission to connect these tools/peripherals is granted, the employee must follow provided directions for protecting the City's computer network.
- Personal files should not be stored on City computer equipment. This also applies to personal media files, including but not limited to personal documents, images, audio and video files. IT staff may delete these types of files if found on City-owned equipment. Exceptions would be recordings for which the City has created, owns, purchased, or has a license.
- City equipment or technology, including City-issued email accounts, shall not be used for: illegal activities, personal business interests, for-profit ventures, political activities, outside employment, public office or employment which is incompatible with City employment, wagering, betting, or selling chances, annoying or harassing other individuals, fund-raising except for City-approved activities, religious activities, pornographic, obscene, or indecent images or content, forwarding junk email, advertisements, or chain emails, or other uses deemed by City management to be inconsistent with City activities. If any employee has a question as to whether a use is appropriate, that employee must contact the City Administrator or applicable Department Head for permission before engaging in the conduct in question.
- The City reserves the right to monitor end user activity. Software and/or hardware may be used to monitor, filter, block, or limit internet activity. The City may inspect any data or information stored on its equipment or network, even if the information is personal to the employee.

Hardware

In general, the City will provide the hardware required for an employee to perform their job duties. Requests for new or different equipment should be made to the Department Head, who may consult with IT staff.

Unapproved hardware, including cameras, mobile devices, printers, external storage devices, and any other peripherals that have not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited. IT staff

may, without notice, remove any unauthorized equipment attached to the City's computer system or network.

The City will not supply mobile devices, including computers, based solely on the desire of employees to work offsite. A business need will be required for each mobile device deployment and must be approved by the Department Head. In general, mobile devices will only be issued to employees who: regularly use their device offsite; require a device for access to special software or systems; have a documented business need for a device; and/or require the use of a device while traveling.

Employees are responsible for the proper use and care of City-owned computer equipment. City employees are expected to provide reasonable security to all City-owned computers and related equipment. This includes ensuring that passwords comply with this policy. Removable media must be kept in a secured area. Non-public, private, and/or confidential data must not be displayed in such a manner that unauthorized personnel or others can view or access it. All City-owned computers and related equipment must be secured while off City premises. For instance, employees must not leave computer equipment in an unlocked vehicle or unattended at any offsite facility. Computer equipment must not be exposed to extreme temperature or humidity.

Software

In general, the City will provide the software required for an employee to perform their job duties. Requests for new or different software should be made the Department Head, who may consult with IT staff.

Unapproved software or downloads (free or purchased), games, screen savers, toolbars, clipart, music/audio, and movie/video clips, that have not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited.

Employees shall not download or install any software (free or purchased) or addons (such as toolbars or clipart) on any City computer or related device without the prior approval of the IT staff. The only exceptions to this policy are updates to software previously approved by IT such as anti-virus, anti-malware, etc. IT staff may, without notice, remove any unauthorized programs or software, downloads, or other files on any City computer, related equipment, network, or electronic resource.

Electronic Mail

The City provides most employees with an email account for work-related use. Minimal personal use of the City email system by employees is allowed, provided it does not interfere with an employee's work and is consistent with all City policies. Using the City's

email to participate in any kind of personal listservs or mailing list is prohibited.

Employee emails, including those that are personal in nature, may be considered “public” data for both e-discovery and information requests and may not be protected by privacy laws. Personal e-mail transmitted through or saved on the City’s e-mail system, computers, network, or other technological resources, may also be monitored as directed by the City Administrator or BPU Commission (for BPU employees only) and without notice to the employee.

In addition, employees must adhere to these email guidelines:

- Do not open email attachments or links from an unknown sender. Review sender's email address, date/time, subject line, and name and file type of attachments to verify legitimacy/relevance. Delete junk or "spam" email without opening. Do not respond to unknown senders.
- Never transmit an email that you would not want your supervisor, other employees, members, city officials, or the media to read or publish (e.g., avoid gossip, personal information, profanity, etc.).
- Use caution or avoid corresponding by email on confidential communications (e.g., letters of reprimand, correspondence with attorneys, medical information).
- Do not use harassing language (including sexually harassing language) or any other remarks, including insensitive language or derogatory, offensive, or insulting comments or jokes.
- Employees’ email use must otherwise comply with all applicable provisions of this policy, all other applicable City policies, and all applicable laws.

Electronic Calendars

A shared calendar environment is provided as part of the City's email software program. All employees are encouraged to keep their electronic calendar up to date and may grant relevant staff the ability to view their calendar. All employees are encouraged to utilize the out of office automatic replies for known absences.

Phone/Voicemail

Voicemail that constitutes an official record of City business must be kept in accordance

with all records retention requirements for the department and should be copied to the network for storage. All other voicemails should be deleted from the voicemail system (and email system) when no longer needed. Voicemail may be considered “public” data or otherwise subject to disclosure in accordance with the MGDPA. Employees should contact IT staff with any questions about voicemail storage and/or deletion.

Presence/Instant Messaging

Employees who are provided with the City's presence / instant messaging (IM) software should remain logged in when working and may utilize it for communications between City staff. Instant messaging may be considered “public” data, or otherwise subject to disclosure in accordance with the MGDPA and must be kept in accordance with the City's records retention requirements if they constitute an official record of City business. Employees are not allowed to download or install any unapproved messaging software on City devices.

Intranet

Employees should keep the City's Intranet as their web browser home page and are encouraged to utilize the documents, announcements, links, and calendars to remain informed and share information with other staff.

Storing and Transferring Files

If you are unsure whether an email or other file is a government record for purposes of records retention laws or whether it is considered protected or private data under the MGDPA or other law, you must check with the City Administrator or applicable BPU Department Head (for BPU employees only) before deleting or releasing the information or file in question. If you are unsure how to create an appropriate file structure for saving and storing electronic information, contact IT staff.

Employees must adhere to these guidelines when transferring and storing electronic files:

- All electronic files should be stored on network drives or approved web or cloud-based storage locations. IT staff will not back up documents stored on local computer hard drives and hold no responsibility for recovery of documents on local computer hard drives should they fail. Subject to the provisions of this policy, files may be temporarily stored on a mobile device when an employee is offsite; however, the files should be copied to an approved storage location when as possible.
- Electronic files created on an employee's personal device or computer must

not be transferred to the City's network. City-related files should not be created or stored on an employee's personal device or computer.

- All removable storage media (e.g., CDs, flash or USB drive, or other storage media) must be verified to be virus-free utilizing an IT approved process before being connected to City equipment.
- Email that constitutes an official record of City business must be kept in accordance with all records retention requirements for the department and should be copied to the network or other approved location for storage.
- Email that is simple correspondence and not an official record of City business should be deleted when no longer needed.
- Electronic files or emails that contain nonpublic, private, or confidential data should be stored in a location on the City's network that is properly secured.

Any files containing nonpublic, private, or confidential data should not be stored anywhere other than the City's network or other approved location. Employees must obtain the prior approval of the Department Head before taking any file containing nonpublic, private, or confidential data offsite.

Personal Devices

Employees with prior approval may choose to use their own equipment to read or compose email or other City data as governed in this policy. Employees understand that by connecting their personal equipment to the City's email system, their personal devices could be searched during an e-discovery or other court-ordered scenarios and agree to grant access to their personal devices should such a situation arise.

Passwords

Employees are responsible for maintaining computer/network passwords and must adhere to these guidelines:

- Passwords must meet minimum complexity requirements designated by IT staff. Employees must change passwords when prompted or as scheduled by IT Staff.
- Multi-factor authentication methods should be used when available for web/cloud-based applications. Multi-factor authentication is an additional

layer of security beyond just a username/password and generally requires a code or acknowledgement on a physical device or a code sent by a separate means of communication.

- Passwords should not be shared with anyone including other staff. If it is necessary to access an employee's computer when they are absent, contact your supervisor; IT staff will not provide access to staff accounts without prior approval.
- Passwords should not be stored in any location on or near the computer or stored electronically such as in a cell phone or other mobile device unless properly secured.

Computers and other devices should not be left unattended while a user is logged in - either lock the computer when away (Win+L or Ctrl+Alt+Del) or use a timed screen saver that will require a password to unlock upon return.

Network Access

Non-City-owned computer equipment used in City buildings should only use the public wireless connection to the Internet. Under no circumstances should any non-City-owned equipment be connected to the City's computer network wirelessly or via a network cable.

Exceptions may be granted by IT staff.

Personal computer equipment may not be connected to the City's network without prior approval of the IT staff. Personal equipment may be subject to password requirements or other electronic security measures as determined by IT staff.

Staff shall not attempt to circumvent or disable firewalls, anti-virus/anti-malware software, software updates and patches, network/computer security settings, or any other measures put in place to protect the network. If access to necessary resources is obstructed, notify supervisor and/or IT staff to explore options.

Remote Access to the Network

Examples of remote access include, but are not limited to: Virtual Private Network (VPN), TeamViewer, and Windows Remote Desktop connections. While remotely connected to City computer resources, all aspects of this Technology Use Policy will apply, including the following:

- Telework opportunities and remote access to the City's network requires a

job specific reason and/or a request from a supervisor to the City Administrator. Remote access privileges may be revoked at any time by an employee's supervisor, Department Head, the City Administrator or IT staff.

- If remote access is from a non-City-owned computer, updated security software (anti-virus and anti-malware) must be installed and operational, and all critical operating system updates must be installed prior to connecting. Failure to comply could result in the termination of remote access privileges.
- Remote access/assistance from third parties is not allowed without prior approval from IT staff. When remote access/assistance from a third party is granted, their activities must be monitored by City Staff.
- Recreational use of remote connections to the City's network is strictly forbidden. An example of this would be a family member utilizing a City's cellular data connection to access the internet.
- Private or confidential data should not be transmitted over an unsecured wireless connection. Wireless connections that are not secure could pose a security risk if used to transmit passwords or private data. Unsecure wireless connections may include cellular networks and wireless access points unless proper security protocols are in place.

Security Compromise

If a virus or malware is suspected on any City device, IT staff must be notified immediately. Any other indications of computer or network security compromise must be reported to IT staff immediately.

Internet

The internet is available to employees for research, education, and communication directly related to the mission, charter, and tasks of the City. Users must honor copyright laws regarding protected commercial software and intellectual property. Users accessing the internet through the City's computers and related equipment should minimize unnecessary network traffic that might interfere with the ability of others to make effective use of this shared network resource. Users are also responsible for adhering to City standards when browsing the internet. Failure to adhere to City standards puts the City and the individual at risk of legal or financial liabilities, potential embarrassment, and other consequences, including immediate termination of employment and other disciplinary actions. The following considerations apply to all uses of the Internet:

- Information found on the Internet and used for City work must be verified to be accurate and factually correct.
- Approved web browsers include Microsoft Edge, Mozilla Firefox, Apple Safari, and Google Chrome. Usage of other browsers requires prior authorization from IT staff.
- Browsing history including cookies, passwords, and temporary files should be cleared from web browsers frequently or set to automatic delete.
- Limited personal use of the Internet is permitted. Employees may not at any time access inappropriate sites. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, or material advocating intolerance of other people, races, or religions. If you are unsure whether a site may include inappropriate information, you should not visit it.
- City data should not be stored in any web or cloud-based application that has not been provided or approved by IT staff.
- If an employee's use of the internet is compromising the integrity of the City's network, IT staff may temporarily restrict that employee's access to the internet. If IT staff does restrict access, they will notify the employee and the employee's supervisor as soon as possible, and work with the employee and supervisor to rectify the situation.
- Social media use on City owned computers should be limited to maintaining the City's social media presence. Personal use of social media on City owned computers is discouraged.
- Peer-to-peer software/applications are not permitted.
- All staff internet use must comply with all applicable provisions of this policy, all other applicable City policies, and all applicable law.

The City may monitor or restrict any employee's use of the internet without prior notice, as deemed appropriate by the employee's supervisor, the City Administrator, or IT staff.

Personal Social Networking on City-Owned Devices

Employees should not use City-owned devices to post to personal sites, including social networking sites. Employees' personal use of City-owned devices should be minimal and must not interfere with their work duties. All personal social networking and other personal use of the City-owned devices must comply with the terms of this policy.

Personal Social Networking While Off Duty and the City's Responsibility

The City of Brainerd has a duty to protect the reputation of the organization and its employees as well as guard against any liability and potential legal risk regardless of when and where social networking activity occurs. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law. Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. With this in mind, employees must use social media (Facebook, Twitter, blogs, YouTube, etc.) in a manner that follows the following guidelines:

- Individuals should exercise caution and good judgment when social networking.
- Individuals shall not represent that they are speaking or acting on behalf of the City or presenting any interests of the City.
- Individuals are not permitted to display the City of Brainerd logo on any part of their online profiles.
- Individuals never have the right to post non-public, private, or confidential data, such as information related to co-workers personnel data, medical information, or claims or lawsuits against the City, without obtaining the express written consent of the data subject and/or City Administrator as appropriate.
- Individuals who use personal social media accounts are not immune from the law. In general, all users of social networking should be aware that the content of these social networking sites can be subpoenaed and used in criminal and civil trials.
- Individuals need to be aware that they have no reasonable expectation of privacy when social networking and use of personal social media accounts are subject to all pertinent City policies, as well as local, state and federal

laws.

- The City of Brainerd expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law.
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though he or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the city (e.g., Brainerd Cop).
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.

ARTICLE 32. TELECOMMUTING/REMOTE WORK

NOTE: Staff is still working on this Article. This area is reserved for a future policy at this time.

ARTICLE 33. QUESTIONS OR CONCERNS

All employees are required to be familiar with, and abide by, the terms of these policies. Department Heads and the Human Resource Director are ready to answer questions, or to further explain and obtain information about any phase of this manual which is not

clear. All employees should feel free to ask questions of their Department Head, the Human Resource Director, and the City Administrator.

Reviewed and adopted by the City Council

Date: July 5, 2022

ACKNOWLEDGMENT

I acknowledge that I have received a copy of the City of Brainerd Personnel Policy. I understand that this document contains important information regarding the City's general personnel policies and my privileges and obligations as an employee. I will familiarize myself with the personnel policy and I understand that I am governed by its contents. I further understand that the personnel policy is not an employment contract and that the City may change, rescind or add to any policies, benefits, or practices at its sole discretion with or without prior notice.

Employee Signature

Date

Employee Printed Name

Department

EXHIBIT A

HEALTHCARE INSURANCE PREMIUM CONTRIBUTIONS

- CITY ADMINISTRATOR, DEPARTMENT HEADS, AND SUPERVISORS:

The following premium splits and Employer HSA contributions will be effective for our 2021-2023 High Deductible Health Plan Smart Plan options:

<i>Smart Plan #1 - \$1,400 Health Plan</i>	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>			
<u>Employer</u>			
Single	95%	95%	95%
Family	80%	80%	80%
<u>Employee</u>			
Single	5%	5%	5%
Family	20%	20%	20%
<u>HSA Annual Contribution Amount</u>			
<u>Employer</u>			
Single	\$ 1,710	\$ 1,000	\$ 1,000
Family	\$ 2,137	\$ 1,500	\$ 1,500

<i>Smart Plan #3 = \$2,800 Health Plan</i>	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>			
<u>Employer</u>			
Single	95%	95%	95%
Family	80%	80%	80%
<u>Employee</u>			
Single	5%	5%	5%
Family	20%	20%	20%
<u>HSA Annual Contribution Amount</u>			
<u>Employer</u>			
Single	\$ 1,710	\$ 2,000	\$ 2,000
Family	\$ 2,137	\$ 2,500	\$ 2,500

Smart Plan #7 - \$7,000 Health Plan		<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>				
<u>Employer</u>				
Single		95%	100%	100%
Family		80%	90%	90%
<u>Employee</u>				
Single		5%	0%	0%
Family		20%	10%	10%
<u>HSA Annual Contribution Amount</u>				
<u>Employer</u>				
Single	\$	1,710	\$ 2,500	\$ 2,500
Family	\$	2,137	\$ 3,000	\$ 3,000

- All additional employer HSA contributions amounts noted above will be pro-rated based on a monthly contribution.
- The City will front-load the first three months of the additional Employer HAS contribution for all employees by January 31st of each year. Thereafter (effective April 1st), the amount will return and remain as a monthly contribution.
- The City will provide an Opt-Out Option for eligible employees in lieu of the city's health insurance for 2021, 2022 and 2023. If the eligible employee elects the Opt-Out payment for 2021, the monthly Opt-out taxable payment will be \$315 per month. If the eligible employee elects the Opt-Out payment for 2022 or 2023, the monthly Opt-out taxable payment will be \$400 per month.
- The base City health insurance plan for union contract comparison is the embedded \$2,800 High Deductible Health Insurance Plan
- The City will pay 100% of the single and family premium for the Department Heads and Supervisors hired or promoted to such a position before May 1, 2010.

ELECTED OFFICIALS/BRAINERD PUBLIC UTILITIES (BPU) COMMISSIONERS:

- Health insurance options for this group includes the following City contributions for the City-sponsored High Deductible Health Insurance plans:
 - 100% of the premium if single health coverage is elected.
 - 80% of the premium if family health coverage is elected.
- If someone is covered by a different group plan and is eligible to receive the City's Opt-Out payment, individuals in this group can elect to receive \$250 per month as taxable income in lieu of the health insurance benefit.

The City's contribution for all other employees is set in the applicable collective bargaining agreement and/or Council resolutions.

The City provides insurance coverage for former City employees including retirees on a self-pay basis pursuant to state law. Please refer to your Group Insurance Plan booklet for a complete description of benefits.

EXHIBIT B

LONG-TERM DISABILITY COVERAGE AND LIFE INSURANCE

- I. **Long-Term Disability Coverage.** Should an employee become disabled as a result of a non-occupational injury or illness, the City will provide long-term disability coverage to cover 50% of your gross monthly income to a maximum of \$5,417 per month. This plan takes effect the 1st day of the month coincident with or next following six months of continuous employment.
- II. **Face Amount of Life Insurance for Certain Employees and Elected Officials.** Consistent with the Policy Manual, the City will provide life insurance coverage to elected officials, Department Heads, and non-union supervisors in the following amounts: Mayor, City Council and Public Utilities Commission \$50,000; City Administrator and Department Heads \$100,000; Non-union supervisors \$50,000.

Employees should review the applicable Summary Plan Descriptions for additional details for said policies.

EXHIBIT C

MINNESOTA HEALTH CARE SAVINGS PLAN CONTRIBUTIONS

All funds collected by the City on behalf of the employee for purposes of contributing to the Minnesota Health Care Savings Plan will be deposited into the employee's individual health care savings plan account as follows:

1. City Administrator and Department Heads:
 - a) Employees eligible for severance pay as outlined in ARTICLE 27 of the City Employee Policy Manual will contribute 100% of their severance pay into the Plan.
 - b) Employees with 0 to 4 years of service will contribute 1% of gross pay each payroll period.
Employees with 5 to 9 years of service will contribute 1.5% of gross pay each payroll period.
Employees with 10 to 14 years of service will contribute 2% of gross pay each payroll period.
Employees with 15 to 19 years of service will contribute 3% of gross pay each payroll period.
Employees with 20 or more years of service will contribute 5% of gross pay each payroll period.
 - c) 50% of sick leave accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Health Care Savings Plan contribution.
 - d) 100% of accumulated vacation at retirement will be paid into the Plan.
2. Non-Contract Supervisors:
 - a) Employees eligible for severance pay as outlined in ARTICLE 27 of the City Employee Policy Manual and have 25 years or more of service, will contribute 100% of their severance pay into the Plan.

- b) Employees with 0 to 10 years of service will contribute 1% of gross pay each payroll period.
Employees with 10 to 15 years of service will contribute 2% of gross pay each payroll period.
Employees with 15 – 20 years of service will contribute 3% of gross pay each payroll period.
Employees with 20 - 25 years of service will contribute 4% of gross pay each payroll period.
Employees with 25+ years of service will contribute 5% of gross pay each payroll period.
- c) 50% of sick leave accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's post-employment health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Post Employment Health Care Plan contribution.
- d) 100% of accumulated vacation at retirement will be paid into the Plan.
- e) 100% of the City of Brainerd's Early Retirement Incentive Program (ERIP) payment will be paid into the Plan.



9/3/2019
(DATE)

Employee Policy Manual

City of Brainerd

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Commented [KS1]: I suggest we redo the Table of Contents to list Articles instead of Sections and then list sections under each article to make things easier to find - see LMC Policy Template as an example.

Commented [CRS2R1]: I have no problem with renumbering the Table of Contents.

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SECTION 1. PURPOSE

Subdivision 1. Policy Statement

The City Council of the City of Brainerd ("City") deems it advisable to establish a policy governing the relationship between the employees and the City, and to provide procedures for its administration. In the formation of this policy, the Council recognized that the City is a political subdivision of the State of Minnesota and the Employee Policy Manual must conform to applicable law. Within this framework, the Council can establish governing principles upon which a progressive, comprehensive and efficient program of employee relations may be based.

Commented [KS3]: As noted on the table of contents page, I recommend we renumber the entire document so sections would be articles and subdivisions would be listed as sections i.e. Subdivision 1 would be 1.01 for the Policy Statement.

Commented [CRS4R3]: I agree with that proposal as well. Subdivisions add another word (possibly one that not all employees may be familiar with) when trying to direct an employee to a particular policy.

Subdivision 2. General

The purpose of this manual is to help you to better understand the policies and procedures which affect and guide your employment with the City of Brainerd. These policies should are not and cannot not be construed as contract terms, a guarantee of continued employment, or terms and conditions of employment. This manual replaces, revokes, and supersedes any previous personnel policies, interpretations, and practices. This manual is only valid until amended or replaced by the City Council.

This manual is not intended to cover all circumstances that might arise. Employees should become thoroughly familiar with the provisions of this manual within ten (10) business days of their receipt of this manual. Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is "at-will" employment, meaning that such employment may be terminated by the employee or the City at any time, for any legal reason or no reason at all.

Subdivision 3. Amendment to Policy

The City reserves the right to modify, revoke, suspend, or change the language of this personnel policy handbook or any individual policy or policies, in whole or in part, at any time, with or without notice, at the City Council's sole discretion.

Subdivision 4. Equal Opportunity Statement and Affirmative Action

The City of Brainerd is an Equal Opportunity Employer. The City will comply with all applicable laws governing equal employment opportunity and affirmative action. This policy extends to all applicants and employees and to all aspects of the employment relationship including, but not limited to, recruiting, hiring, promotion, transfer, and compensation.

Specifically, the City of Brainerd will provide equal employment and advancement opportunity on the basis of merit within the context of its unique business environment and without regard to race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law.

The Human Resources Director is the designated Equal Employment Opportunity/Affirmative Action Coordinator who has been charged with ensuring that the City of Brainerd's EEO/AA policies are carried out.

~~The City of Brainerd is an Equal Opportunity Employer. The City provides equal employment and advancement opportunity on the basis of merit within the context of its unique business environment and without regard to race, color, creed, religion, national origin, sex, sexual orientation, marital status, familial status, status with regard to public assistance, membership or activity in a local commission, disability, age, or other characteristic protected by a State or federal law.~~

Subdivision 5. Affirmative Action Program

~~This Employee Policy Manual is established in compliance with provisions of the City's Affirmative Action Program as adopted by the City Council on November 22, 1988. The City will take affirmative action to ensure that all employment practices are free of discrimination on the basis described in subdivision 4. Such employment practices include, but are not limited to the following: hiring, promotion, upgrading, demotion, transfer, recruitment or recruitment advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.~~

~~The City fully supports incorporation of non-discrimination and Affirmative Action rules and regulations into contracts. Any employee of this City, or subcontractor to this City, who does not comply with the equal employment opportunity policies and procedures as set forth in this manual will may be subject to disciplinary action, up to and including immediate termination. Any subcontractor not complying with all applicable equal employment opportunity/affirmative action laws, directives and regulations of the federal, State and local governing bodies or agencies thereof, will may be subject to appropriate legal sanctions.~~

~~The City has appointed the Human Resource Director to manage the equal employment opportunity activities and reporting the effectiveness of this affirmative action program, as required by federal, State and local laws, rules, and regulations. The City Administrator will receive and review reports on the progress of the program. If any employee, or applicant for employment, believes he/she has been discriminated against, please~~

Commented [KS5]: Christian will update to reflect the City's current practices.

Commented [CRS6R5]: I have combined the Affirmative Action provision with the Equal Employment Opportunity provision. I have kept the Affirmative Action provisions vague to allow the City some flexibility in the event that it adopts (or is required to adopt) some kind of Affirmative Action plan in the future

contact the Human Resource Director at 501 Laurel Street, Brainerd, MN 56401 or call (218) 828-2307.

SECTION 2. SCOPE OF POLICY

Subdivision 1. Personnel Covered

This manual generally applies to all City ~~and BPU~~ employees, including probationary employees, appointed officials, and elected officials, except to the extent that this manual conflicts with applicable law or collective bargaining agreements. Certain provisions of this manual may be inapplicable to the following individuals:

- A. All elected officials;
- B. Members of City boards, commissions and committees;
- C. Volunteer personnel and emergency employees;
- D. Consultants and/or contracted personnel.

Subdivision 2. Employees Covered by Labor Contracts/~~Civil Service Rules~~

All provisions of this policy apply to employees covered by collective bargaining agreements, except when such provisions are in conflict with collective bargaining agreement provisions ~~and/or Civil Service Rules~~, in which case, such provisions of the collective bargaining agreement ~~and/or Civil Service Rules~~ shall control.

SECTION 3. INTERPRETATION

The purpose of this manual is to provide a basis for the safe, orderly, and disciplined employment environment. This policy ~~will~~ is intended to promote knowledge of what is expected of personnel generally, which should result in a greater degree of self-assurance in all positions. In relationships between ~~positions~~ positions, it should be each City employee's individual aim to build mutual respect and confidence which is essential to local government service.

~~Any local, state, or federal laws that impose stricter requirements or regulations shall be used in lieu of policies or procedures outlined in this personnel policy, whenever they apply. To the extent that any federal, state, or local law, ordinance, rule, or regulation conflicts with any policy or policies herein, the applicable law, ordinance, rule, or regulation shall control. To the extent that any federal, state, or local law, ordinance, rule, or regulation imposes stricter requirements on an area governed by these policies, the applicable law, ordinance, rule, or regulation shall control.~~

Additional information or clarification as to each section of this personnel policy may be obtained from your supervisor, department head or the Human Resources Department. This manual is only a start in our communication network because the City maintains a continuous process of communicating policies and benefits to all staff members. The text of this manual, however, takes precedence over and controls any inconsistent communication from any City employee or elected official.

This manual summarizes the various policies and benefits currently provided by the City. Nothing contained in this personnel policy or in any other City document, and nothing said or done by a City employee, ~~may is, or can~~ be construed as an employment contract between the City and an employee, as a guarantee of continued employment, or terms and conditions of employment. The City and the employee both have the right to terminate the employment relationship at any time, for any legal reason or no reason at all. Except as modified by an individual contract or a collective bargaining agreement, all employment with the City is “at-will” employment.

SECTION 4. IMPLEMENTATION OF THIS POLICY

It is the responsibility of all ~~City and BPU~~ Department Heads and Supervisors to ensure implementation of this policy. Failure of any employee to perform in a manner consistent with this policy, State or federal Law will be grounds for discipline, up to and including immediate termination.

The City Administrator is hereby given authority for the administration of the policies contained in this manual, as directed by the City Council.

SECTION 5. GENERAL INFORMATION

Subdivision 1. Data Practices Advisory

In accordance with the Minnesota Government Data Practices Act (“MGDPA”), the City is required to inform employees of their rights as they pertain to any private information that the City collects from them. During the course of City employment, an employee will likely be asked to provide information which is classified by state law as either private or confidential. Private data is information which generally cannot be given to the public but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data. Much of the data the City has about individual employees, however, is classified as public according to Minnesota Statutes, section 13.43, subdivisions 2 and 3 (as amended). Consistent with the relevant provisions of the MGDPA, aAll public data is available for inspection and copying by members of the public, with or without the employee's consent.

Information about employees requested by the City may be used for the following purposes: (1) to process payroll, including accounting for wages and fringe benefits and to justify any reimbursed expenses; (2) enroll in benefit programs and pension plans; (3) evaluate the employee's job performance, eligibility and abilities; (4) distinguish the employee from other applicants and employees and identify the employee in the correct personnel file; (5) determine the employee's eligibility for employment or promotion, and make employment decisions about the employee's performance; (6) contact the employee or other significant persons in case of an emergency; (7) compile equal opportunity and any affirmative action reports required by applicable law; (8) make decisions regarding the employee's eligibility for sick leave, family and medical leave, parenting leave, and other available leave; (9) make decisions regarding the employee's eligibility for workplace accommodations, including accommodations for disabilities; (10) comply with workers compensation requirements in the event of an injury; and (11) provide information during workplace investigations. Such information may also be used and disclosed for other purposes consistent with applicable law. The information provided by the employee may be used in performance evaluations, determinations regarding merit pay, applications for different employment positions, and other matters which involve a review of the employee's personnel file and past performance.

Unless the employee is told otherwise, the employee is required to provide this information. If the employee refuses to supply the information, the employee may face disciplinary action. Any information which the employee is required to provide cannot be used against the employee in a criminal proceeding. Even if the employee is not required to provide information, it is generally to the employee's best interest to provide it. Without the requested information, the City may not be able to determine the employee's eligibility for employment opportunities, compute wages, or grant the employee other benefits. The employee's refusal to provide information during an employment investigation may also necessitate that the investigation be completed without his or her input.

Federal law permits government agencies to require individuals to provide their social security number for the administration of any tax. Please be aware that when an employee is asked to give his or her social security number on revenue forms, this collection is mandated by law. This information will be shared with the Minnesota Department of Revenue, the Internal Revenue Services, and security tax programs. In most other cases, the disclosure of an employee's social security number is voluntary.

Any information an employee is asked to provide may be shared with individuals within the City whose job duties reasonably require access, as well as individuals outside of the City whose duties require access, such as insurance vendors, consultants, attorneys, and retirement plan employees. Information may also be shared with other agencies authorized by law to receive specific data.

If litigation arises, ~~the some or all~~ information may be provided in documents filed with the court which are available to any member of the public. If it is reasonably necessary to discuss the information at an open City Council meeting ~~or meeting of the BPU Commission, it some or all data will may~~ be available to members of the public. To the extent that some or all of the information is part of the basis for a final decision on disciplinary action, that information ~~is available to any member of the~~ may become public, as provided in Minnesota Statutes, section 13.43 (as amended).

Commented [KS7]: Should this be clarified to state "at an open City Council meeting"?

Commented [CRS8R7]: I have proposed amendments to address potential confusion.

Subdivision 2. Conduct as a City Employee

A. Scope of Policy

It is the policy of the City of Brainerd to maintain a respectful work and public service environment free from violence, discrimination, and offensive or degrading remarks or conduct. Preserving a respectful environment in which to work is the shared responsibility of both management and employees. Inappropriate conduct or communication can interfere with an individual's employment or use of public services, or create an intimidating, hostile or offensive work environment. Any employee found to have acted in violation of this policy shall be subject to appropriate disciplinary action, which may include dismissal from employment.

This policy governs the conduct of all City employees, including; union, non-union, supervisory, non-supervisory, managerial, full-time, part-time and temporary employees; and members of City boards and commissions. This policy is also applicable to City elected officials.

~~In addition, employees are also expected to comply with Section 22 of this Manual that addresses Harassment.~~

Commented [KS9]: We included this language to help clarify that "harassment" is a separate section.

Commented [KS10]: Will need to verify Section # when finalized

B. Definitions of Prohibited Behaviors

Violent behavior includes the use or threat of physical force, harassment, or intimidation, or abuse of power or authority when the impact is to control others by causing pain, fear or hurt.

Discriminatory behavior includes inappropriate remarks about or conduct related to an employee's individual's race, color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation, ~~or~~ status with regard to public assistance, or any other characteristic protected by state or federal law, including behavior specifically prohibited by Section 22 of these policies.

Offensive behavior may include, but is not limited to, such work-related actions as rudeness, exclusionary behavior, creating or displaying graphics depicting co-workers or customers inappropriately, angry outbursts, inappropriate joking, vulgar obscenities, name calling, disrespectful language, or the intentional filing of an unfounded complaint under this policy.

C. Expected Conduct of City Employees

1. City Employee Conduct in General

Employees of the City shall conduct themselves as professional representatives of the City at all times while on duty or on the employer's premises, and that employees will represent the City in such a manner as to reflect most favorably on the City. Conduct unbecoming a City employee shall include any conduct that tends to bring the City into disrepute or reflects discredit on the person as an employee of the City, or that which tends to impair the functioning of an employee, a department, or the City.

Your conduct as a City employee is an extremely important part of your job. You are a representative of our City, and as such, the way you perform your job and your neat and clean appearance reflects upon our entire organization. Your willingness to assist people, to courteously and accurately respond to their questions or complaints, and to refer them to the proper source when you are unable to solve their problems, are all important facets of your position with the City and impact upon each member of our staff.

2. Conduct in Dealing with the Public

a. Expected Public Interaction.

While representing the City, employees shall be professional and courteous to all members of the public and City customers. They shall be tactful in the performance of

Commented [KS11]: Connie asked if we could incorporate Section 22 directly into this area instead of a separate section. I believe Christian will believe that harassment should remain as a separate section. In the past, Christian has stated it is better to include these types of items in multiple areas.

Commented [CRS12R11]: I continue to recommend having a separate policy prohibiting harassment. "Harassment" is a legal term of art and policies regarding harassment have separate investigation and reporting requirements. Keeping the two separate hopefully ensures that the distinct provisions are followed.

their duties, control their tempers and exercise the utmost patience and discretion. They shall not engage in argumentative discussions, even in the face of extreme provocation. They shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law, ~~race, religion, politics, national origin, lifestyle~~, or other personal characteristics.

b. Interaction with an Abusive Customer.

In the event a member of the public or City customer becomes abusive on the phone or in person, employees should refrain from escalating the situation and if possible, employ tactics to defuse the situation, e.g. lower the voice, ask the person to sit down. ~~If the situation doesn't improve, the employee can refer the person to a supervisor or request that a police officer be called to the scene. Employees are not required to continue telephone or in-person conversations in which the caller uses profanity or threats. In those situations, the employee should refer the call to a supervisor or inform the caller, as courteously as possible, that the employee is hanging up and will talk with the caller after the caller has calmed down. If a member of the public becomes abusive the employee should refer the person to a supervisor or request that a police officer be called to the scene depending on the level of concern.~~

c. Media Requests

All city employees have a responsibility to help communicate accurate and timely information to the public in a professional manner. Requests for private data must be directed to the designated official authority. Requests for or information outside of the scope of an individual's job duties should must be routed to the appropriate department header to the data practices authority.

Any employee who identifies a mistake in reporting should bring the error to the City Administrator or other appropriate staff. Regardless of whether the communication is in the employee's official City role or in a personal capacity, employees must comply with all laws related to data privacy, trademark, copyright, software use, and other laws governing the employee's communication etc.

Except for routine events and basic information readily available to the public, all requests for interviews or information from the media are to must be routed through the eCity Administrator. No city employee is authorized to speak on behalf of the eCity without prior authorization from the eCity Administrator or his/her designee. Media requests include anything intended to be published or viewable to others in some form such as television, radio, newspapers, newsletters, social media postings, and websites.

When responding to media requests, employees should follow these steps:

Commented [KS13]: In b. Interaction with an Abusive Customer we say the same thing twice. In the middle of the paragraph we say "...ask the person to sit down. If the situation doesn't improve, the employee can refer the person to a supervisor or request that a police officer be called to the scene." Then the last sentence says: "If a member of the public becomes abusive the employee should refer the person to a supervisor or request that a police officer be called to the scene depending on the level of concern." Maybe reword the 2nd sentence?

Commented [CRS14R13]: The second sentence is redundant and can be deleted.

Commented [IH15]: Not sure if this "Subdivision" reference is needed or not

Commented [KS16R15]: I changed subdivision to "a-c".

Commented [CRS17]: I recommend that all requests for all data be routed to the City Administrator. It may be difficult for some employees to determine whether information is "readily available to the public."

1. If the request is for routine or public information (such as a meeting time or agenda), provide the information and notify the City Administrator of the request.

Commented [CRS18]: Same as previous comment.

2. If the request is regarding information about city personnel, potential litigation, controversial issues, an opinion on a city matter, or if an employee is unsure if the request is a "routine" question, forward the request to the City Administrator. An appropriate response ~~would~~may be, "I'm sorry, I don't have the full information regarding that issue. Let me take some basic information and submit your request to the appropriate person, who will get back to you as soon as he/she can." Then ask the media representative's name, questions, deadline, and contact information.

All news releases concerning Ceity personnel will be the responsibility of the City Administrator, or designee.

Commented [CRS19]: Currently, this is limited to personnel matters. The City could be more restrictive and move all media responses to the City Administrator's purview.

When/if the City Administrator authorizes a staff person to communicate on behalf of the City in interviews, publications, news releases, on social media sites, and related communications, employees must:

- Identify themselves as representing the City. Account names on social media sites must be clearly connected to the City and approved by the City Administrator.
- Be respectful, professional, and truthful when providing information. In most cases, only factual information (not opinions or editorial comments) should be provided: For example, the employee could state that, "The City finished street cleaning on 16 streets in the northwest corner of the City this past week" instead of "The City is doing a great job with street cleaning this year!" Corrections must be issued when needed.
- Generally, not include personal opinions in official city statements. One exception is communications related to promoting a city service. For example, an employee could post the following on the City's Facebook page: "My family visited Gregory Park this weekend and really enjoyed the new band shelter." Employees who have been approved to use social media sites on behalf of the City should seek assistance from the City Administrator on this topic.
- Notify the City Administrator if they will be using their personal technology (cell phones, home computer, cameras, etc.) for Ceity business. Employees should be aware that data transmitted or stored may be subject to the Minnesota Government Data Practices Act.

d. Personal Communications and Use of Social Media

It is important for employees to remember that the personal communications of employees may reflect on the City, especially if employees are commenting on Ceity business or commenting on issues that implicate their Ceity employment. As Ceity representatives, employees share in the responsibility of earning and preserving the

public's trust in the City. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out City functions faithfully and impartially and without regard to factors such as race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law. ~~race, sex/gender, religion, national origin, disability, sexual orientation, or other protected categories.~~

Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

- Do not share any private or confidential information you have access to as a result of your city position.
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the City's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.
- Remember what you write or post cannot easily be undone. It may also be spread to larger audience than you intended. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos you would not want your boss or other employees to read, or you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation concerning a co-worker or between co-workers that would not be permissible in the workplace is not permissible online, even if it is done after hours, from home and on home computers.
- While representing the City, all employees are expected. ~~The City of Brainerd expects its employees~~ to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the City. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race, national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
- If you publish something related to city business and there is liable to be confusion whether you are speaking on behalf of the City, it would be best to identify yourself and use a disclaimer such as, "These are my own opinions and do not represent those of the City of Brainerd."

- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not be permitted to use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours for personal purposes even though he or she may have a key; a clerk, while working at during work hours at City Hall, should not campaign for a friend who is running for City Council.
- Personal social media account name or email names should not be tied to the City (e.g., (Brainerd Cop)).

3. Conduct Between Employees

- a. Employees shall cooperate with and be courteous to co-workers at all levels. While everyone is entitled to their feelings, they are not entitled to act on their feelings inappropriately in the workplace. Employees shall control their tempers and refrain from behaviors that are hostile, offensive, intimidating, degrading, or exploitative. Inappropriate displays include, but are not limited to: slamming doors, pounding tables, kicking furniture, unwanted physical contact of any nature, making threats, berating or belittling others, speaking in raised voices, using coarse, violent or profane language or gestures, refusing to speak or respond when spoken to, and refusing to provide assistance when requested.

Employees shall treat each other with respect. They shall refrain from making remarks about or using nicknames for other employees that are disparaging or based on a personal characteristic; producing cartoons or other graphics displaying other employees in an unfavorable light; communicating threatening or disparaging remarks via any medium (voice, e-mail, notes, etc.); engaging in unwanted horseplay or practical jokes; failing to relay written, verbal or telephone messages; unwanted, unwarranted physical contact of any nature, including "roughhousing" such as punching in the arm, pinching, arm twisting, etc., and other, similar unwanted conduct.

b. Workplace Violence

The City is committed to creating and maintaining a workplace that is free from violence. Employees are strictly prohibited from engaging in any threatening or violent behavior while on City premises, while operating vehicles for work related reasons, while engaged in City business off premises, or while at any City sponsored activity, or while otherwise representing the City.

Specific examples of conduct that may be considered threats or acts of violence under this policy include, but are not limited to, the following:

- Threatening physical or aggressive conduct directed toward another individual.
- Threatening an individual or his/ her family, friends, associates, or property with physical harm.
- The intentional destruction or threat of destruction of City property or another's property.
- Harassing or threatening phone calls, letters, or e-mails.
- Surveillance or stalking.
- Veiled threats of physical harm or similar intimidation.

Employees have a responsibility to help keep the municipal buildings safe and free of violence. Employees should inform their supervisor of any workplace situations that violate this policy, even if the threat is presented as "only a joke". Supervisors are responsible for taking immediate steps to avoid workplace violence from occurring and subsequently report such information to City Administration. Any employee who engages in threatening behavior or acts of violence will be subject to disciplinary action up to and including termination.

For purposes of this policy, the term "workplace violence" does not include actions by law enforcement officers taken in the course of their employment with the City and consistent with applicable law and City policy regarding use of force and law enforcement activities.

D. Reporting Inappropriate Workplace Behavior

Any employee who feels he or she is being subjected to ~~intimidating, offensive, or harassing~~ behaviors in violation of this Policy and any employee who witnesses or becomes aware of such conduct, should take the following steps:

1. If possible, politely but firmly tell the person who is behaving inappropriately that you are uncomfortable with or offended by the behavior and ask them to stop.
2. ~~Write a memorandum~~ Document in writing for personal reference that describes the inappropriate behavior, the date the inappropriate behavior occurred, how it made you feel, what you did, how the offending party responded, and the names and titles of any witnesses.
3. If confronting the offending party is not practical or possible, or if the person refuses to discontinue the inappropriate behavior, the employee should, adhering to the chain of command, contact someone on the list below verbally or in writing:
 - a. The employee's immediate supervisor

- b. The employee's department head, ~~including, as applicable, a BPU department head (for BPU employees)~~
- c. The Human Resource Director
- d. The City Administrator, ~~for City-side employees~~

Reports of conduct by the Human Resource Director or the City Administrator may be made to the Mayor or the Personnel Committee of the City Council.

~~Reports of conduct by a BPU Department Head may be made to the Human Resource Director or the Chair of the BPU Commission.~~

When making a report, the complaining party should be prepared to provide the following information:

1. The complainant's name, department and position title.
2. The name, department, and position title of the offending party, if known.
3. The specific facts of the allegedly inappropriate behavior, how long it has allegedly gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) that was supposedly taken against the employee who is filing the complaint.
4. Names of witnesses, if any, to the allegedly inappropriate behavior.
5. Whether the complainant has previously reported the allegedly inappropriate behavior and, if so, to whom.

E. Investigating Complaints of Inappropriate Conduct

The Human Resource Director, the City Administrator, ~~the BPU Department Head (as appropriate), or a~~ designee of the City Administrator or Human Resources Director ~~or BPU Department Head (as appropriate)~~, shall investigate complaints of inappropriate workplace conduct.

The determination of whether inappropriate workplace conduct has occurred will be made on a ~~case-by-case~~ case-by-case basis. Disciplinary action will also be determined on a ~~case-by-case~~ case-by-case basis in accordance with these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Employees who are found to have filed bad faith complaints of inappropriate workplace conduct ~~will~~ may be subject to disciplinary action as described in the preceding paragraph.

F. Consequences of Engaging in Inappropriate Workplace Conduct

Employees who are found to engage in inappropriate workplace conduct may be subject to disciplinary action, up to and including immediate termination, subject only to [applicable law](#), the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

Supervisors are required to deal swiftly and vigorously with employees who treat others disrespectfully. Any supervisor who condones or allows inappropriate workplace conduct or fails or refuses to respond appropriately to complaints of inappropriate workplace conduct, may be subject to disciplinary action as described in the preceding paragraph, whether or not the supervisor actually engaged in inappropriate workplace conduct.

G. Retaliation for Complaints of Inappropriate Workplace Conduct

All employees are prohibited from retaliating or threatening to retaliate against anyone who complains of inappropriate workplace conduct. Any employee found to engage in retaliatory actions is subject to discipline, up to and including immediate termination, subject only to [applicable law](#), the provisions of these policies, applicable policies of the Police and Fire Departments, and applicable collective bargaining agreements.

H. Relationship of Code of Conduct to Harassment Policy.

This policy supplements and does not replace the City's policies prohibiting discrimination, harassment in the workplace, and workplace violence.

Subdivision 3. Gifts and Endorsements

No employee shall directly or indirectly solicit, receive, or agree to receive any compensation, "tip," gift, reward, gratuity, payment of expense, or promise of future employment or other future benefit from any source except the City, for any matter or proceeding connected with or related to the duties of the employee. Notwithstanding the above rule, employees may ~~only accept the following:~~[accept gifts that follow the State Statute guidelines for gifts.](#)

~~A. Gifts of nominal value (\$5 or less) that were not solicited;~~

~~B. Plaques or similar mementos recognizing an individual's service in a field of specialty or to a charitable cause;~~

~~C. Reimbursement of actual expenses incurred for lodging, mileage, meals, and other travel expenses that are not reimbursed by the City, but which have been approved in advance by the employee's Department Head (or City Administrator, for costs incurred by Department Heads other than BPU Department Heads) as part of the work assignment. For costs incurred by BPU Department Heads, the costs must be approved in advance by the BPU Commission. This includes food and~~

Commented [KS20]: This change was recommended. I would appreciate Christian's thoughts if this should be detailed out or not.

Commented [CRS21R20]: I prefer the more detailed language in this case. The recommended change is vague. In addition, if the City uses the more general language, I would amend it to read "...may only accept gifts consistent with the gifts permitted in Minnesota Statutes, section 471.895 (as amended)."

~~refreshment provided at a meeting, conference, or other event as a normal courtesy to all attendees incidental to the performance of official duty.~~

Employees and elected officials qualifying as "local officials" pursuant to M.S. 471.895 (as amended) must comply with the terms of that statute.

Subdivision 4. Solicitations

The City does not allow outside solicitations to take place on City time or property. If you are asked to purchase goods, contribute funds, etc. while on City premises, please notify your supervisor immediately.

Commented [KS22]: It was suggested to clarify this is for "outside" solicitations so employees can place items in the break room, etc i.e. school fundraiser flyers.

Subdivision 5. Conflicts of Interest

No City employee shall engage in any act which is in conflict, or creates an appearance of impropriety or conflict, with the performance of official duties. When an employee believes the potential for a conflict of interest exists, it is the employee's responsibility to avoid the situation. Employees must notify their supervisor if a conflict of interest or perception of a ~~conflict of interest~~conflict-of-interest situation exists or may exist. Employees who knowingly fail to avoid or disclose a potential, perceived or actual conflict of interest situation are subject to disciplinary action in addition to any criminal penalty that may be involved. An employee shall be deemed to have a conflict if the employee:

Commented [CRS23R22]: That is fine, as long as the City is open to permitting all solicitations by employees.

- A. Has any financial interest in any sale to the City of any goods or services;
- B. Engages in conduct that violates ~~Subdivision 3~~Section 5.03 (Gifts and Endorsements) of this Section;
- C. Participates in his/her capacity as a City employee in the issuing of a purchase order or contract in which he/she has a private financial interest, direct or indirect, or performs in regard to such contract some function requiring the exercise of discretion on behalf of the City; or
- D. Engages in, accepts employment from, or renders services for private interests for any compensation or consideration having monetary value when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above.

An employee should not make a unilateral decision if there is any doubt about his/her private employment. The City Administrator or Human Resource Director should be consulted.

~~Except as provided in section "B" above, n~~ No employee shall, directly or indirectly, give or receive, or agree to give or receive any compensation, gift, reward, commission or gratuity from any source except the City for any matter directly connected with or related to his official services as such employee with this City except as authorized in Section B above.-

- E. Discloses or uses without authorization from the City Administrator ~~or BPU Department Head (for BPU employees only),~~ private, confidential, or other non-public information to further the employee's private ~~interest, or interest, or~~ accepts outside employment or involvement in a business activity that will require the employee to disclose or use such information-.
- F. Has a financial interest or personal interest in any legislation or decision coming before the City Council and participates in discussion with or gives an official opinion to the City Council unless the employee discloses on the record of the Council the nature and extent of such interest.

Subdivision 6. Outside Employment

Employees may not engage in outside employment which might in any way hinder their objective and impartial performance of their public duties, be incompatible with their City employment, or impair their efficiency on the job. The potential for conflicts of interest is lessened when it Individuals employed by the City of Brainerd ~~must regard the City as~~ their primary employment responsibility. All outside employment is to be reported to the employee's Department Head immediate supervisor. If a potential conflict exists based on this policy or any other consideration, the supervisor-Department Head will consult with the City Administrator and Finance Director. Any city employee accepting employment in an outside position that is determined by the City Administrator to be in conflict with the employee's city job will be required to resign from the outside employment or may be subject to discipline up to and including termination.

~~Employees may not engage in outside employment which might in any way hinder their objective and impartial performance of their public duties, be incompatible with their City employment, or impair their efficiency on the job. Employees must obtain prior authorization from their Department Head, the City Administrator, if the Department Head is seeking outside employment, or the BPU Commission, if a BPU Department Head is seeking outside employment, before accepting outside employment. The Department Head will consult with the City Administrator (or Human Resource Director, for BPU~~

Commented [KS24]: Finance Director raised concerns that she needs to be aware of outside employment for documentation in the CAFR (audit). Please note the added language was from the LMC EPM template.

Commented [CRS25]: This sentence makes sense at the start of the policy.

~~Department Heads) or designee, before granting any employee authorization to engage in outside employment.~~ Outside work shall be regarded as secondary to regular City employment and shall not interfere with the availability of employees for regularly scheduled work, emergency, or on-call duties. The City's Workers Compensation insurance does not cover any individual injured in the course of outside employment.

Subdivision 7. Incompatible Activities

As a City employee, you have a responsibility to uphold a high standard of honesty and integrity.

You may not engage in any activities which are inconsistent, incompatible or in conflict with the duties of your position. These incompatible activities include activities such as using your position or City resources for personal gain or advantage, accepting money or gifts for performing your duties as a City employee, or engaging in activities which impair your attendance or efficiency in the performance of your duties. If an employee has any question as to whether an activity is "incompatible" with his or her work for the City, the employee must ask his or her department head or, if the employee is a department head, ~~his or her immediate supervisor~~ the City Administrator for clarification.

Subdivision 8. Use of City Vehicles, Facilities and Equipment

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for: unauthorized personal convenience, for profit, for private use, or as part of secondary employment, or any other use not in the interest of the City, except as provided by law. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

Employees are responsible for appropriate use of time, telephones, cellular telephones, computers, printers, paper, pens, stationery, facsimile machines, and pages. They are expected to adhere to the highest ethical standards when conducting City business and to follow these policies.

Management personnel are responsible for ensuring the appropriate use of all City property, including e-mail and internet access through training, supervising, coaching and taking disciplinary action, when necessary.

Employees who are required to take a City vehicle or equipment home due to the nature of their work for the City, shall do so only with the approval of the City Administrator ~~or BPU Commission (for BPU employees only)~~ and in accordance with IRS reporting requirements, and applicable law. City vehicles shall be allowed to leave the City limits (or service area for Fire Department, Police, and BPU vehicles) only while on official City business.

City employees shall have no expectation of privacy in any property or equipment of the City, including, but not limited to, offices, cubicles, desks, files, vehicles, filing cabinets, voice mail, text messages on City paid cellular telephones, PDAs, computers, laptops, mass storage devices, e-mails, electronic media or devices of any kind, or any other type

of equipment, property, or space provided by the City. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed, monitored, or searched by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion.

Staff members shall operate City vehicles in a careful and prudent manner and shall obey all state and federal laws ~~of the state~~ and all City orders pertaining to such operation. Staff members shall set a proper example for others when operating City vehicles.

This policy applies to all employees who drive a vehicle on city business at least once per month, whether driving a city-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently but whose ability to drive is essential to their job due to the emergency nature of the job. The city expects all employees who are required to drive as part of their job to drive safely and legally while on city business and to maintain a good driving record.

To the extent allowed by law, the HR Department will examine driving records once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify ~~their immediate supervisor~~ their Department Head and the HR Director or their designee on the first workday after any temporary, pending or permanent action is taken on their license, and in any event before operating a city vehicle, and to keep their Department Head and HR Director informed of any changes thereafter. The eCity will determine appropriate action on a case-by-case basis.

The City Council approved the following policy regarding vehicle use. The intent of this policy is to ensure appropriate use of City vehicles and rolling stock by ~~municipal~~ City employees while working on City business or as a representative of the City and to ensure a clear understanding thereof.

- A. To the extent feasible, ~~all~~ City employees should use a City-owned vehicle when traveling for City work, including conferences, seminars, and meetings that the employee is attending in his or her role as a City employee.
- B. Conferences, schools, seminars and meetings: For purposes of this policy it is intended that training opportunities during the regular work shift within a 90-mile distance of the work location is considered an acceptable work-related activity in as much as the vehicle will be returned to the work site either during or shortly after the completion of the shift.
- C. Out-of-town and overnight conferences and schools: To the extent feasible, ~~all~~ employees should use an available City-owned vehicle when traveling to overnight conferences, schools, and events. For travel which has a duration of more than

one ~~work day~~workday in length, the employee may utilize a non-fleet vehicle, if a City-owned vehicle is not available, the use for which will be compensated at the approved rate. Alternatively, upon prior approval of the City Administrator ~~or BPU Commission (for BPU employees only)~~ or designee, the employee can ~~receive the use of~~utilize an available vehicle ~~if not needed by other staff during the applicable timeframe previously determined as an excess vehicle by the City Council.~~

D. Lunch hours and authorized breaks: For purposes of this policy when an employee is scheduled to work at a site other than their normal reporting location, and for Police Officers on duty, use of a City vehicle for travel within one mile of the City limits for the purpose of lunch and other authorized breaks shall not be considered personal use.

E. Overnight use: It is the intent of this policy that all municipal vehicles will have returned to their designated work location by the end of the work shift unless prior ~~written~~ authorization has been received from the employee's Department Head ~~from the City Administrator or Human Resource Director (for BPU employees only).~~

F. Personal use: Personal use of City vehicles by City employees or elected officials is prohibited without the express written consent of the City Administrator ~~or BPU Commission (for BPU employees only).~~

Subdivision 9. ~~Firearms at Work~~ Possession and Use of Dangerous Weapons.

All employees, except sworn employees of the Police Department, are prohibited from carrying or possessing firearms and/or dangerous weapons other than firearms while acting in the course and scope of employment for the City. The possession or carrying of a firearm or dangerous weapon by employees other than sworn Police Officers is prohibited while working on City property or while working in any location on behalf of the City. This includes but is not limited to:

≈1. Driving on City Business;

≈2. Riding as a passenger in a car or any other type of transit on City business;

≈3. Working on the City's property, including City Hall or any other City-owned work site;

≈4. Working off site on behalf of the City;

≈5. Performing emergency or on-call work after normal business hours and on weekends;

≈6. Working at private residences and at businesses on behalf of the City;

7. Attending training or conferences on behalf of the City.

Possession or use of a dangerous weapon is prohibited on city property, in City vehicles, or in any personal vehicle, which is being used for City business. This includes employees with valid permits to carry firearms.

For the purposes of this policy, "dangerous weapons are defined to include all legal or illegal firearms, switchblade knives, or any other object that has been modified to serve as a weapon or that has the primary purpose of serving as a weapon.

The following exceptions to the dangerous weapons prohibition are as follows:

Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on city property, to the extent required by Minnesota Statutes, section 624.714 (as amended), or other applicable law.)

~~To the extent required by Minnesota Statutes, section 624.714 (as amended), an exception to this policy is that City employees may carry and possess firearms in City-owned parking areas if they have obtained the appropriate permits(s) and/or their carrying and possession of the firearm(s) is otherwise lawful. If a City employee must drive his or her personal vehicle on City business, he or she may check a firearm with the City Police Department during the workday and retrieve it after work. The Police Department will establish procedures to ensure that the firearm is locked up and is not able to be retrieved by anyone other than the owner/employee.~~

~~When responding to on-call work from home after regular work hours, an employee is prohibited from bringing a firearm in their private vehicle unless the vehicle remains in a parking lot and is not needed in order to respond to the call.~~

Commented [KS26]: This language was from the LMC EPM template.

Commented [CRS27R26]: Does the League have a definition of "dangerous weapon" that the City would like to use? There are state and federal definitions that the City could refer to, if the City would prefer to do so.

Commented [KS28R26]: LMC definition included. Christian will also provide additional legal guidance on this matter.

Commented [KS29]: Per Chief Bestul, the PD policy is to retain the firearm for 7 - 10 days; therefore, the PD should not be utilized.

Commented [CRS30R29]: That is fine.

In addition, the City prohibits the discharge of firearms on City property, except as necessary for the performance of duties by sworn Police Department employees. Any employee in violation of this policy will be subject to disciplinary action, up to and including discharge.

This policy is administered and enforced by the Human Resources Department. Anyone with questions or concerns specific to this policy should contact the Human Resource Director.

SECTION 6. APPOINTMENTS AND PROMOTION

Subdivision 1. Appointment Procedure

It is the intent of the City of Brainerd to recruit and select qualified candidates for available positions, as it deems necessary. The City is committed to recruitment and selection practices that are based on merit. The recruitment and selection processes will be conducted to ensure an open and competitive process. The City Administrator or a designee will oversee the hiring process for positions within the City. Human Resources staff are responsible for managing the recruitment and selection process including, but not limited to, obtaining authorization to hire, evaluating job descriptions, preparing vacancy announcements, scoring applications, conducting interviews, facilitating background checks, scheduling various assessments and medical examinations, scheduling interviews, and making and withdrawing job offers. While the hiring process may be coordinated by staff, the City Council is responsible for the final hiring decision and must approve all hires to city employment. The BPU Commission is responsible for the final hiring decision and must approve all hires to BPU employment.

The selection process will be a cooperative effort between the City Administrator, HR Director and the hiring supervisor, subject to final hiring approval of the City Council or BPU Commission when applicable. Any, all, or none of the candidates may be interviewed, as determined by the City at its sole discretion.

When hiring for BPU Department Heads, the City Council will establish a Work Group to oversee the hiring process and a representative from the BPU Commission will be included in said Work Group.

The process for hiring seasonal and temporary employees may be delegated to the appropriate supervisor with each hire subject to final City Council or BPU Commission approval. Except where prohibited by law, seasonal and temporary employees may be terminated by the supervisor at any time, subject to City Council or BPU Commission approval.

Commented [KS31]: Question was asked why HR if all DH administer and enforce the entire EPM?

Commented [CRS32R31]: The handbook assigns different administrators with initial response to certain situations. In cases, where consistency is particularly important (e.g., harassment) or there is potential confusion as to what the law requires (e.g., data privacy) those areas are best referred to a central administrator for initial action. In this case, central administration of the firearm and weapons policy is important both for City safety and potential disciplinary consequences.

Commented [KS33]: Language from LMC sample EPM - changed word "manage" to "oversee".

Formatted: Highlight

Every appointment to municipal service shall be recommended by the City Administrator or designee to the Personnel and Finance Committee and approved by the City Council. When required by law or by the City Administrator, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

For an existing position that becomes vacant and new positions approved as part of the budget, the City Administrator or designee shall ~~direct the Human Resource Director to~~ inform the City Council of the vacancy to receive the City Council's authorization to begin recruitment and, when complete, to bring a hiring recommendation to the City Council for authorization to hire. Furthermore, when a position has already received approval from the City Council and an offer is made to a candidate who then declines, the Human Resource Director and the department head may use their judgment in reviewing the list of applicants or re-advertising for the same position.

~~Unless otherwise required by law or applicable collective bargaining agreement, in no event shall the hiring or continued employment of any person be considered a contractual relationship between the employee and the City. Further, unless otherwise provided, such relationship shall be defined as employment "at will," which allows either party to dissolve the relationship at any time, for any legal reason or no reason at all. With respect to employees of BPU, the BPU Department Heads will make a recommendation to the BPU Commission, which shall approve all appointments for BPU employees. When required by law or by the BPU Department Heads, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.~~

Commented [KS34]: Moved to end of subdivision.

~~For an existing BPU position that becomes vacant and new positions approved as part of the budget, the BPU Department Heads shall direct the Human Resource Director to inform the BPU Commission of the vacancy to receive the BPU Commission's authorization to begin recruitment and, when complete, to bring a hiring recommendation to the BPU Commission for authorization to hire. Furthermore, when a position has already received approval from the BPU Commission and an offer is made to a candidate who then declines, the Human Resource Director and the Department head may use their judgment in reviewing the list of applicants or re-advertising for the same position.~~

~~The City Council has may, from time to time, provide-provided staff with hiring perimeters. To the extent that the City Council does so, and if said perimeters are followed, the Council has agreed to may ratify the hiring of an individual after a conditional job offer has been given and the successful completion of pre-employment screening process has been completed.~~

Commented [CRS35]: This should be done via a resolution, not as a section in the Personnel Policies. The Council cannot indefinitely be bound to ratify certain hires because it (or its former members) provided certain parameters in the past.

Unless otherwise required by law or applicable collective bargaining agreement, in no event shall the hiring or continued employment of any person be considered a contractual

Commented [KS36R35]: Informed Christian that the Council already approved a motion to reflect this. Per Christian, a resolution is not needed based on current guidance.

relationship between the employee and the City. Further, unless otherwise provided, such relationship shall be defined as employment "at-will," which allows either party to dissolve the relationship at any time, for any legal reason or no reason at all. ~~With respect to employees of BPU, the BPU Department Heads will make a recommendation to the BPU Commission, which shall approve all appointments for BPU employees.~~ When required by law or requested by the applicable ~~the BPU~~ Department Heads, merit and fitness shall be ascertained by written, oral or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held.

Subdivision 2. Physical Examination and Background Checks

To the extent authorized or required by law, the City reserves the right to require applicants to complete a pre-employment physical examination by a physician designated by the City as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require employees to complete physical examinations related to their ability to complete the essential functions of their positions. The cost of any such examination shall be paid by the City.

To the extent required or authorized by law, the City reserves the right to require applicants to submit to a background checks, including a criminal history background check, as part of the hiring process. Likewise, to the extent authorized by law, the City reserves the right to require internal applicants for promotional positions to submit to a background check, including a criminal history background check, as part of the recruitment and appointment process.

Subdivision 3. Promotion from Within

To the extent ~~feasible~~ practical, notice of all new job openings or vacancies shall be posted for at least three (3) working days in an appropriate place. Any employee desiring to apply for such job opening shall do so ~~in writing via the designated application process, which must be submitted to the person designated in the job posting, typically the Human Resource Director or BPU Department Head, by 4:30 p.m. on the closing day.~~ If a person other than the Human Resource Director is designated in the job posting, the designated individual shall provide the application to the Human Resource Director within one (1) working day of receipt of the application. The internal recruitment process in no way prohibits the City from seeking and hiring qualified applicants through an external recruitment process. Except as required by the provisions of a collective bargaining agreement, the City reserves the right to recruit 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 of at least 3% 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.~~
- E. 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.

SECTION 29. SALARY ADMINISTRATION PLAN

Non-union supervisory employees and Department Heads shall be compensated in accordance with wage resolutions adopted by the City Council.

New employees will generally start at Step 1. Promoted and/or reclassified employees will generally start at the lowest step that is at least 3% more than the employee received in his or her previous position with the City; further, wage step placement appeals will not

Commented [CRS37]: Depending on who is promoted, the City may also need a memorandum of agreement with a union regarding an acting department head.

Commented [KS38R37]: This was an advisory statement from Christian and does not need to be included in the EPM.

Commented [KS39]: Moved this section to be closer to promotions/payroll areas. Will need to renumber when finalized.

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be considered from promoted and/or reclassified employees for a higher step placement. The City retains the sole discretion to start an employee at a higher step depending on qualifications and needs of the City. Employees shall have no right under this policy to file a grievance or appeal to the City Council regarding their initial placement on the pay table or initial placement following a promotion or reclassification.

Commented [CR540]: This clause is potentially confusing. Is it the intention that the appeal procedure cannot be used to challenge placement for a newly promoted employee or that an employee who has been promoted cannot use the appeal procedure again after being promoted?

Commented [KS41R40]: We added the last sentence for clarity.

Performance evaluations shall be based on job descriptions and result-oriented performance standards. Performance evaluations are intended to assist the employee in reaching maximum potential, enhance services provided by the City, and provide for periodic, formal review by the employee's supervisor and Department Head. The performance evaluation system shall be conducted in the following way:

- A. It shall be the responsibility of each Department Head to provide periodic written evaluations of subordinate employees, on at least an annual basis. This once a year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.
- B. It shall be the responsibility of the City Administrator to provide periodic written evaluations of Department Heads on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.
- C. It shall be the responsibility of the City Council to provide periodic written evaluations of the City Administrator, on at least an annual basis. This once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

The decision to provide a merit (step) increase shall be the determination, at the discretion of the Department Head, City Administrator, or City Council as applicable. Pay steps through step 6 are based on satisfactory performance.

In order to advance to Step 7 on an applicable wage grid approved by the City Council, an employee must be on Step 6 and obtain two "achieves expectations" and one "exceeds expectations" on their annual performance evaluation for their currently-held position in any given three-year cycle beginning January 1, 2019. In order to advance to Step 8, an employee must be on Step 7 and obtain another "exceeds expectations" with two prior "achieves expectations" on their annual performance evaluation for their currently-held position in any given three-year cycle.

Step increases for employees hired before August 1, 2022, will become effective on January 1 of each year following the employee's performance review. For employees hired, reclassified or promoted on or after August 1, 2022, any step increase will become effective on their position anniversary date. Progression through the pay steps will be accomplished by an annual review of employee performance, as described above.

Denial or delay of a step increment shall be subject to the grievance procedures described in these policies.

SECTION 7. PROBATIONARY PERIOD

Subdivision 1. Duration and Purpose

Subject to the provisions of an applicable collective bargaining agreement and applicable law, all new, rehired, promoted, or reassigned employees shall serve a twelve (12) month probationary period upon assuming their new positions. This period shall be used to observe the employee's work habits and ability to perform the work that they are required to do. Department Heads shall file with the City Administrator ~~or, for BPU employees only, the BPU Commission~~, a written summary of the probationary period and include a recommendation for continued employment of the employee.

An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City Administrator ~~if applicable~~, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

Subdivision 2. Extension

An employee's probationary period may be extended for an additional period of time not to exceed six (6) months upon recommendation from the City Administrator or Department Head and at the sole discretion of the Human Resource Director.

~~An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City Administrator or Department Head, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.~~

Subdivision 3. Termination

The City Council, upon recommendation of the Personnel and Finance Committee, may terminate with or without cause a probationary employee anytime during the probationary period ~~if in the City Administrator's opinion, the employee's performance indicates that the employee is unable or unwilling to perform the duties of the position satisfactorily. The employee so terminated shall be notified in writing of the reasons for the termination~~.

Commented [KS42]: Does this change trigger different performance review cycles for these employees?

Commented [CRS43R42]: It potentially does, depending on when a Department Head typically completes evaluations. The evaluations need to be complete for a step increase to take effect.

Commented [KS44R42]: In discussing this with Christian, we agreed that first review follows the probationary period; however, subsequent reviews should follow the timeframe established for all employees realizing that a review could happen in late falloff one year, however, the step advancement may not happen until a later time the following year i.e. position anniversary date (up to August 31 as that is our typical last date for the annual review timeframe).

Commented [KS45]: This was moved to the previous section.

Commented [KS46]: I believe we can now terminate a veteran if still in the probationary period without following Veteran law provisions.

Commented [CRS47R46]: That is true. I still recommend checking with legal counsel before doing so, just to make sure the law has not changed.

~~and shall not have the right to appeal, subject to the provisions of Minnesota Statutes Section 197.46 (as amended), which shall apply to veterans, as defined in Minnesota law.~~

~~The BPU Commission, upon recommendation of a BPU Department Head, may terminate without cause a probationary BPU employee anytime during the probationary period if in the BPU Department Head's opinion, the employee's performance indicates that the employee is unable or unwilling to perform the duties of the position satisfactorily. The employee so terminated shall be notified in writing of the reasons for the termination and shall not have the right to appeal, subject to the provisions of Minnesota Statutes Section 197.46 (as amended), which shall apply to veterans, as defined in Minnesota law.~~

Commented [KS48]: Same as above

Subdivision 4. Completion

At the end of the probationary period, the Department Head will recommend that the City Administrator ~~(or, for BPU employees only, the BPU Commission),~~ take one (1) of the following actions:

- 1) Extension of Probation;
- 2) Regular Employment; or
- 3) Termination.

If the recommendation is for ~~an extension of probation or~~ termination, the City Administrator will take the recommendation to the Personnel and Finance Committee for consideration, before receiving final approval from the City Council.

An employee's completion of the probationary period does not guarantee future employment or create a "for cause" termination standard. All employees, including employees who have successfully completed a probationary period are "at will" employees. Nothing in this personnel policy provides, is intended to provide, or should be construed as providing additional rights to employees who complete the probationary period.

~~With respect to BPU employees, the BPU Department Head will make the above recommendation to the BPU Commission.~~

Subdivision 5. Vacation and Sick Leave

During a new or rehired employee's probationary period, vacation leave and sick leave shall be earned. Employees may use vacation leave after the first six months of their probationary period ~~-, subject to approval by the employee's supervisor at the sole discretion of the City Administrator, BPU Department Head (for BPU employees only), or designee.~~ Sick leave may be taken during the probationary period not to exceed the sick leave time earned.

SECTION 8. HOURS OF WORK

Subdivision 1. Work Schedule

Due to the necessity of providing service twenty-four hours per day, seven days per week, it is a reasonable condition of employment to require that employees work a regular schedule of hours as established by the City. Regular schedules shall not be construed as excluding shift rotation and emergency work schedules based on public necessity as determined by the City.

The following are descriptions of the work schedules for the types of employees utilized by the City of Brainerd.

- A. Subject to the terms of any applicable collective bargaining agreement, regular full-time and probationary full-time employees, included in the annual budget, normally have a work schedule of forty (40) hours per week, (five (5) days per week, eight (8) hours per day). The City reserves the right to set employees' schedules and hours of work as required to deliver City services.
- B. Regular part-time and probationary part-time employees have a work schedule that is less than forty (40) hours per week. Employees who work less than thirty (30) hours per week shall not be eligible for fringe benefits, except as required by law. Employees who work thirty (30) hours per week or more shall be eligible for the following fringe benefits on a pro-rata basis:

Holidays - As established in Section 11 of this manual.

Vacation - As established in Section 12 of this manual.

Sick Leave - As established in Section 13, Subdivision 6 of this manual.

Employees who work thirty (30) hours per week or more shall be eligible to participate in the City's group health insurance, cafeteria plan and life and long-term disability ("LTD") insurance provided that the participation of such employees is allowed by the insurance carrier/plan eligibility rules.

The employer's contribution for health insurance and life and LTD insurance for eligible participating employees shall be determined on a pro-rata basis.

- C. Temporary or seasonal employees may work a flexible schedule for a period not exceeding 185 consecutive calendar days in each year of employment, or such other amount of time as determined by the City Administrator, ~~BPU Department Head (for BPU employees only)~~, or designee. Full-time students under the age of 23 may also work a flexible schedule as allowed by law. Employees who are temporary, seasonal, and/or full-time students are not eligible for fringe benefits.

Commented [KS49]: Verify Sections are still correct after renumbering

Commented [CR550]: This appears to be a reference to PERA. The City still needs to make sure that temporary and seasonal employees work less than the limits imposed by the PELRA, or else the temporary employee may become a union employee.

Employees should be made aware of their work schedules by a method suitable for the various city departments. Any changes in work schedules usually will be made known to employees affected ahead of time when the schedules take effect, except in the case of emergencies.

Subdivision 2. Time Sheets

Each employee of the City shall complete an accurate time sheet ~~or absence report following the proper procedure and timeline.~~ Time sheets~~absence reports~~ shall cover a two (2) week (fourteen (14) day) period ~~for full-time employees. Timesheets with an exception except for Paid on-call Firefighters whose timesheet will cover a full month.~~ Time sheets ~~for hourly employees~~ shall be signed-completed by each employee and shall show all hours worked and the department ~~said-the~~ work is to be charged to. ~~Absence reports shall be completed and signed by all salaried employees and shall show total hours absent in each pay period.~~ All overtime, if applicable, shall be approved and initialed by the Department Head. Reporting false information on a time sheet may be cause for disciplinary action up to and including immediate termination.

Subdivision 3. Supervisory Employees

The City Administrator, Department Heads, and non-union supervisory employees who are exempt from the overtime and minimum wage provisions of the Fair Labor Standards

Act may be allowed to maintain limited flexibility in their work schedule from the normal ~~work-day~~workday to the extent that job performance and service responsibilities of the City to the public remains satisfactory and at the approval of the employee's supervisor. This limited flexibility means that, if a Department Head or non-union supervisor is absent for four or more hours in any normal work-dayworkday, appropriate leave must be utilized to account for the absence.

The regular work week for all regular employees, including Department Heads and non-union supervisors consists of five ~~work-days~~workdays. Even though Department Heads and non-union supervisors may be required to work additional hours for night meetings, City functions and duties, etc., the employee must report to work all five days per week, even if the actual hours worked exceeds 40 hours prior to the fifth day. If an employee does not report to work for an entire day in a work week, the ~~absence-report-timesheet~~ must show which type of appropriate leave is being taken (e.g., eight hours of vacation time).

~~Department Heads and non union supervisors are allowed "limited flexibility" in their work schedule. This limited flexibility means that, if a Department Head or non union supervisor is absent for four or more hours in any normal work day, appropriate leave must be utilized to account for the absence.~~

If a Department Head or non-union supervisor needs to work a full day on a weekend or holiday, he or she may make a request to the Department Head (for non-union supervisors), City Administrator (for ~~City-side~~Department Heads), ~~or BPU Commission (for requests made by BPU Department Heads)~~ to have this work-day switched to allow for a day off on another day. This request must be approved by the Department Head ~~or~~ City Administrator, ~~or BPU Commission~~, as appropriate, before the employee switches his or her work schedule.

Subdivision 4. Adverse Weather Conditions

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). ~~Employees not reporting to work for reasons of personal safety will not normally have their pay reduced as a result of this absence. An employee may be allowed to work from home with prior approval by their supervisor; - Employees will be allowed to use accrued vacation time or compensatory time, or with supervisor approval; or - may modify their work schedule if allowed without incurring overtime per the applicable union contract or make other reasonable schedule adjustments.~~

Sworn police officers, firefighters, utility and public works maintenance employees will generally be required to report to work regardless of conditions.

Commented [CR551]: This potentially has the impact of allowing employees to get paid when they are too scared to drive, despite the fact that conditions may be safe.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or the Ceity Aadministrator.

SECTION 9. OVERTIME HOURS

Subdivision 1. General

Overtime pay for employees will be in conformance with State and federal law, including Minnesota Statutes, section 177.25 (as amended) and the Federal Fair Labor Standards Act, 29 United States Code, section 201 et seq., ("FLSA") as amended, and all applicable State and federal rules and regulations implementing Section 177.25 and/or the FLSA.

- A. For purposes of computing overtime for employees, other than BPU employees, work weeks shall begin at 12:00 a.m. on ~~Saturday~~ Sunday. For purposes of computing overtime for BPU employees, work weeks shall begin at 12:00 a.m. on ~~Sunday~~ Monday.
- B. Hours worked by non-exempt, non-union employees in excess of forty (40) per week shall be compensated at one and one-half (1 ½) times their hourly wage rate unless a different rate is established by an employment contract.
- ~~C.~~ Holiday hours actually worked are calculated as time worked in the computation of overtime pay.
- ~~C.D.~~ For the purposes of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.
- ~~D.E.~~ No employee may work overtime without the prior approval of his or her Department Head, or designee.
- ~~E.F.~~ Exempt, non-union employees shall not be eligible for overtime compensation or compensatory time, except as provided in Subdivision 4 of this Policy.

Subdivision 2. Payment

Department Heads are responsible to schedule the work in their departments to minimize overtime. Overtime shall be ~~calculated~~ inputted in 1/4 hour (fifteen minute) increments.

Subdivision 3. Compensatory Time

Upon request, non-exempt, non-union employees, ~~other than BPU employees~~, will be allowed to ~~take-earn~~ compensatory time ~~off~~ in lieu of receiving overtime compensation. In no event, shall accrued compensatory time off exceed the limitations provided in the FLSA-. Once an employee has reached maximum accrual, compensation for additional hours must be paid in cash, rather than accrued as compensatory time off.

Commented [KS52]: Need to update since BPU employees are now eligible for comp time.

Compensatory time shall be determined at the rate of one and one-half (1½) hours off for every hour of overtime worked, or at a higher rate, if the employee receives a higher rate of pay for the overtime hour(s) in question in accordance with the terms of a collective bargaining agreement or other employment contract. Compensatory time off will be granted in not less than one-quarter hour units.

Commented [KS53]: This needs to be updated as some employees elect comp time when they are eligible for double time.

The City reserves the right to pay out any compensatory time off in excess of 80 hours, as it deems necessary. Accrued compensatory time off may be used with prior approval from the employee's Department Head, which shall be granted unless use of compensatory time off would unduly disrupt the operations of the City.

Upon separation from the City's employment, employees shall be paid for their accrued, but unused compensatory time off in accordance with the FLSA and other applicable law.

Subdivision 4. Overtime for Exempt Employees

Notwithstanding the above, exempt employees may receive overtime compensation to the extent provided in an intergovernmental agreement or other contract between the City and another entity, if the contract requires the other entity to pay the cost of overtime hours.

SECTION 25. PERSONNEL/PAYROLL

Commented [KS54]: Moved the next three sections to be closer to other payroll topics. Will need to renumber entire document when finalized.

Subdivision 1. Personnel Records

An employee must notify the Department Head and the Human Resource Director in case of a change in address, telephone number, marital status, or number of dependents. If at any time an employee's address or telephone number is changed and the change is not reported, it may be difficult or impossible to complete delivery of messages, notices, or other information which should be received. Incomplete information creates problems with payroll deductions and fringe benefits, such as medical coverage. Accordingly, the failure to provide such information may impact the City's ability to provide pay and/or benefits to City employees.

Subdivision 2. PERA (NOTE: Check PERA's Website: www.mnpera.org to verify contribution rates)

Almost all city employees in the State of Minnesota are covered by a public pension system known as the PERA. Both the City and employees contribute to PERA. For specific information regarding annual contribution rates, contact the Human Resource Director. Vesting time varies depending on your membership eligibility date and the pension is portable among public employers throughout the state. Being vested means you qualify for benefits at the minimum allowable age.

In normal situations, employees and employers both contribute a percentage of the employee's gross salary to PERA. However, Minnesota law provides that some income received by an employee are not eligible for PERA contributions. Employees should contact the Human Resource Director with specific questions regarding PERA contributions.

Subdivision 3. FICA

All full-time, part-time, temporary and/or seasonal employees are mandatory members of Federal Insurance Contribution Act (commonly known as Social Security). The City is required to deduct certain amounts from such employees' gross salary. Certain employees may be exempt from this deduction. Employee should contact the Human Resource Director with specific questions regarding FICA deductions.

Subdivision 4. Medicare

All full-time, part-time, temporary and/or seasonal employees have a mandatory deduction for Medicare tax taken from their paychecks. Employee should contact the Human Resource Director with specific questions regarding Medicare deductions.

Subdivision 5. MN Deferred Compensation

The City is a member of the Minnesota Deferred Compensation Plan. An employee may, at their option, defer any part of income, to a maximum amount set by law, of gross salary. The City does not contribute any monetary amount to the MN Deferred Compensation Plan unless required by the provision of collective bargaining agreement.

SECTION 26. SEPARATION FROM EMPLOYMENT

Subdivision 1. General Statement

Separation from employment is an inevitable part of personnel activity within any organization, and there are many reasons for separation. The reasons for separation include: (1) resignation; (2) discharge (in accordance with Section 24 of these policies); (3) layoff; and (4) retirement (in accordance with Section 27 of these policies).

Commented [KS55]: Verify Section before finalizing

An employee leaving the City, for any reason, must turn in his/her identification badge and card, tools, shop coats, keys, books, and other City equipment no later than the last day of work. The employee is expected to go through an exit interview with the Human Resource Director on his/her last day of work. This interview is important for both the City and the employee. Through this interview, information may be provided which can lead to the causes of turnover, absenteeism, poor communication, etc. Oftentimes problems are discovered which appeared non-existent previously. It can be an effective means for gaining insight into potential personnel problems.

Subdivision 2. Resignation

As at-will employees, all City employees may resign at any time, for any reason. In order to be considered "in good standing" at the time of resignation, an employee must file with employee's department head, at least 14 days before leaving, a written resignation stating the effective date of the resignation. Department Heads and non-union supervisors wishing to resign "in good standing" should give the City as much advance notice as possible, but must provide at least 30 days' notice. Failure to comply with this 14 day or 30-day notice procedure may be considered cause for denying the employee future employment by the City and denying termination benefits. Unauthorized absence from work for a period of three working days may be considered by the City Administrator as a resignation "not in good standing" and without benefits.

Subdivision 3. Layoffs

After at least two weeks' notice to the employee, the City Administrator may lay off any employee when such action is necessary because of shortage of work or funds, the abolition of a position, or changes in organization. If it should become necessary to reduce the City work force, the City may give consideration to the employees' on-the-job performance, abilities, job knowledge and the potential for other jobs within the City.

Subdivision 4. Final Pay Following Termination of Employment

Subject to applicable law, employees who terminate employment with the City shall receive their final pay settlement a maximum of two weeks from the date of resignation, coinciding with the next normal payday.

SECTION 27. RETIREMENT AND SEVERANCE PAY

Subdivision 1. Procedure

Regular employees who retire voluntarily in good standing, as defined in Section 26, after giving at least two (2) weeks notice to the City and are eligible to immediately

Commented [KS56]: Verify Section # when finalized.

begin receiving monthly retirement benefits under the provisions of PERA as of the date of his or her retirement shall be granted severance pay based on the following conditions and rates:

Subdivision 2. Conditions

A. Retirement - voluntary and in good standing, ~~as~~ defined in Section 26

Commented [KS57]: Verify Section # when finalized.

B. Voluntary retirement or termination of employment in good standing, ~~as~~ defined in Section 26, due to health reasons, service-connected injury, or illness.

Commented [KS58]: Verify Section # when finalized

Subdivision 3. Rates

All regular employees, regardless of the date of hire, shall be entitled to 100 percent of their unused sick leave as severance pay, with a maximum of nine hundred sixty (960) hours, upon retirement in good standing, as defined in ~~Section~~ 26, or if they become disabled and must terminate their employment, with written proof by a physician. In the event of death, severance pay shall be paid to the beneficiary. Pay for unused sick leave shall be based on existing annual wage as described in Exhibit C or applicable union contract.

Commented [KS59]: Verify Section # when finalized.

SECTION 10. ~~LUNCH MEAL~~ AND COFFEE BREAKS

All hourly employees shall receive one (1) fifteen (15) minute rest period during each four (4) consecutive hours of work. Rest periods are part of the paid work shift. An employee shall not be compensated additional wages or time off for not taking a scheduled rest period. Employees are expected to use these breaks as intended and will not be permitted to adjust work start time, end time, or ~~lunch meal~~ time, including any standard ~~lunch-meal~~ time designated by a specific Department—or accrue compensatory time—by saving these breaks. Breaks should be scheduled so as to not interfere with work requirements.

In general, City employees working a scheduled full-time shift are entitled to a one (1) hour uncompensated meal period. Meal periods shall be scheduled by the department head or supervisor. Employees will not be permitted to adjust work start time or accrue compensatory time by skipping or shortening ~~lunch-meal~~ breaks.

SECTION 11. HOLIDAYS

The following holidays, or days observed as such, shall be considered paid holidays for all regular employees:

- New Year's Day
- Martin Luther King, Jr. Day
- Presidents' Day
- Memorial Day
- Veterans' Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving Day
- Christmas Day
- 2 "Floating" holidays

When an official holiday recognized in this policy falls on a Saturday, the preceding Friday shall be declared a holiday for employees whose normal work schedule is Monday through Friday. When an official holiday recognized in this policy falls on a Sunday, the following Monday shall be declared a holiday for employees whose normal work schedule is Monday through Friday.

If a recognized holiday falls during an eligible employee's paid absence (e.g., vacation, sick leave), holiday pay will be provided instead of the paid time off benefit that would otherwise have applied.

Union employees shall be compensated for holiday time according to the terms and conditions of their collective bargaining agreement.

Requests for floating holidays shall require three (3) days' written notice to the Department Head. Such requirement may be waived when absence of the employee will not unduly affect the functioning of the department.

~~New employees receive the two floating holidays (16 hours) on a pro-rata basis based on their date of hire. After the initial year of employment, one floating holiday should be taken in the first six months of the year, the other one in the remaining six months of the year.~~

Employees will be accredited their floating holidays on January 1st of each year and may use them at any time during the year.

New employees whose first working day is between January 1st and June 30th, inclusively, shall receive two (2) floating holidays and new employees whose first working

day is between July 1st and December 31st, inclusively, shall receive one (1) floating holiday.

All floating holidays must be taken in one (1) day (or eight (8) hour) increments. Floating holidays are not carried over year-to-year and must be used in the calendar year that they are received. Floating holidays not used by December 31 of the calendar year they were received are forfeited.

SECTION 12. REGULAR VACATION

Subdivision 1. Responsibility

Vacations are granted under the following rules:

Subdivision 2. General Vacation Rules

A. When Taken

Vacation leave may be taken after written ~~written~~ approval by the Department Head or designee. Vacation leave will be granted in not less than one-quarter hour units. Probationary employees' use of vacation leave is subject to Section 7 of these policies.

B. Length of Service

Length of service for the purpose of determining vacation accrual is calculated from the date of hire with the City. If an employee returns to work at the City after a break in service, the employee's length of service will be calculated from the date of rehire.

C. Scheduling Vacation

Department Heads are responsible for approving the scheduling of vacation leaves for employees under their supervision, and approval is not automatic.

1. Consideration shall be given to seasonal demands and departmental staffing needs before granting any vacation leave requests.
2. Subject to the needs of the Department, pPreference in scheduling shall be based on the order in which vacation requests are received and/or seniority of employees.

D. Monetary Consideration in Lieu of Vacation

Commented [KS60]: Question raised regarding the purpose of Subd 1. What does it add - is it required legally?

Commented [KS61]: Not sure if all DH follow a "written" approval procedure.

Commented [KS62R61]: Per Christian, time offer approve SHOULD be in written format for documentation purposes. Does BS&A have an option for time off that can be documented?

Commented [KS63R61]: Per Connie - this is not an option in BS&A. IT will check if there is an electronic approval option. In the meantime, HR recommends that supervisor approval be via email for documentation purposes.

Commented [KS64]: Verify Section # before review is finalized

Vacation pay shall be reflected on the paycheck issued for the pay period in which the vacation is taken. No vacation shall be paid in lieu of taking time off, except as authorized under the City's Cafeteria Plan.

E. Accrual of Vacation

Employees may accumulate vacation time equal to a maximum of 240 hours. Vacation accrual will cease if an employee is off of the City's payroll system for any reason whatsoever, except as required by law.

~~G. After the successful completion of the initial probationary period, e~~Employees who leave the employment of the City in good standing, as defined in Section of these policies, by retirement or resignation will receive pay for 100 percent of unused accrued vacation. An employee shall not be considered to be "in good standing" if the employee resigns or retires following allegations of misconduct, as determined by the City Council in its sole discretion.

All full-time employees, except the City Administrator and Department Heads, shall earn vacation at the rate of: 6.6~~6~~⁷ hours per full month worked during the employee's first five years of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

5 years of service - 10.00 hours per month
10 years of service - 10.67 hours per month
11 years of service - 11.33 hours per month
12 years of service - 12.00 hours per month
13 years of service - 12.67 hours per month
14 years of service - 13.33 hours per month
15 years of service - 14.00 hours per month
16 years of service - 14.67 hours per month
17 years of service - 15.33 hours per month
18 years of service - 16.00 hours per month
19 years of service - 16.67 hours per month
20 years of service - 17.33 hours per month
21 years of service - 18.00 hours per month
22 years of service - 18.67 hours per month
23 years of service - 19.33 hours per month
24 years of service - 20.00 hours per month

City Administrator and Department Heads shall earn vacation at the rate of:

Ten (10) hours per full month worked during the first year of employment. Thereafter, employees shall earn paid vacation as follows:

After completion of:

1 year of service - 10.67 hours per month
2 years of service - 11.33 hours per month
3 years of service - 12.00 hours per month
4 years of service - 12.67 hours per month
5 years of service - 13.33 hours per month
6 years of service - 14.00 hours per month
7 years of service - 14.67 hours per month
8 years of service - 15.33 hours per month
9 years of service - 16.00 hours per month
10 years of service - 16.67 hours per month
11 years of service - 17.33 hours per month
12 years of service - 18.00 hours per month
13 years of service - 18.67 hours per month
14 years of service - 19.33 hours per month
15 years of service - 20.00 hours per month

SECTION 13. EMPLOYEE LEAVES

Subdivision 1. Jury Duty

Any employee who is required to serve as a juror shall be granted a leave of absence with pay while serving in such capacity. Such employees will be required to turn over any compensation they receive for jury duty, minus mileage reimbursement, to the City in order to receive their regular wages for the period. An employee cannot receive more than the employee's normal take-home pay as a result of any employer pay supplemented to Jury Duty pay. Jury duty pay must be remitted to the City. When employees are excused from jury duty during their regular working hours, they are expected to return to work if practicable. If a holiday occurs during jury duty, the employee shall be paid for the holiday.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued vacation or compensatory time to make up the difference.

Insurance benefits will remain in effect for the full term of jury duty leave. Employees must continue to make employee contributions for any insurance that requires payment on their part.

Vacation time and sick time shall continue to accrue during the period of leave. Benefits will continue to accrue as though the employee were actively at work.

Subdivision 2. Military Leave

Employees shall be entitled to leave without pay for military service, including training in the National Guard, consistent with the Uniformed Services Employment and Re-employment Rights Act of 1994 ("USERRA") (as amended) and Minnesota law, including, but not limited to, Minnesota Statutes, chapter 192 (as amended).

~~Employees may be entitled to leave of absence with pay for military service, including training in the National Guard or Reserves, in accordance with the USERRA or Minnesota law, including, but not limited to, Minnesota Statutes, Chapter 192, as amended.~~

Commented [KS65]: Duplicate paragraph

Subdivision 3. Leave for Service in Organizations

The City Council with the recommendation of the City Administrator and Personnel and Finance Committee, may grant a leave of absence without pay for reasonable periods not to exceed one (1) year to any regular employee for the purpose of serving in an elected or appointed position, other than as a paid employee, in a professional organization or a governmental commission or committee, provided such leave will not reduce the quality or level of service to the public.

No vacation leave, sick leave, holiday leave or compensatory time off benefits shall be used or accrued during a leave of absence and the City will not contribute to insurance premiums.

~~With respect to BPU employees, the BPU Commission may approve the above leave of absence upon the recommendation of the BPU Department Head.~~

Subdivision 4. Parental Leave

Parenting Leave, as provided for in Minnesota Statutes, including section 181.941, as amended, grants qualifying employees unpaid leave of up to twelve (12) weeks for: (1) a biological or adoptive parent in conjunction with the birth or adoption of a child; or (2) a female employee for prenatal care, or incapacity due to pregnancy, childbirth, or a related health condition. Parental Leave is considered to be taken simultaneously with FMLA leave. If leave is taken due to the birth or adoption of a child, the leave must begin within twelve (12) months of the birth or adoption, unless the child remains in the hospital after the mother has been discharged, in which case the leave must begin within twelve (12) months after the child leaves the hospital.

Commented [KS66]: A question was recently asked if there should be a maximum i.e. a work day equals a 8 hour day or a max of 24 hours. Currently we allow up to 30 hours for those that work 10 hour shifts

Commented [CRS67R66]: The City could limit leave in that fashion (24 hours of leave across a three day period), but that leads to an employee potentially having to return to work in the middle of a regularly scheduled shift to avoid taking an unpaid leave.

Subdivision 5. Funeral Leave

All regular full-time employees shall be permitted paid funeral leave not to ~~exceed three consecutive working days~~ 24 hours, if necessary, for the death of an immediate family member ~~-(employee's spouse, child, step-child, father, mother, brother, sister, father-in-law, mother-in-law) and one (1) working day, if necessary, for the death of an employee's grandparent.~~ Funeral leave for other relatives may be granted at the discretion of the Human Resource Director. Up to twenty-four (24) additional hours of sick leave may be used as additional funeral leave at the discretion of the City Administrator ~~-or BPU Department Head (for BPU employees only).~~ For purposes of this policy, the term "working day," means a regularly scheduled shift, excluding any time that an employee would be considered "on call" unless the employee actually would have been called to perform duties during that period.

Subdivision 6. Sick Leave

All full-time employees shall earn sick leave at the rate of one (1) day (8 hours) per month of employment. Sick leave will be granted in not less than one-quarter hour units. Sick leave accumulation shall be a maximum of 120 days (960) hours.

An employee may use sick leave when the employee is unable to attend work or perform work duties due to illness, injury, the necessity for medical, dental, or chiropractic care, childbirth, or exposure to contagious disease where such exposure may endanger the health of others with whom the employee would come in contact during the course of performing work duties. Employees may also use their accrued sick leave for the following:

- A. Illness or injury of the employee's spouse, child, adult child, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent. Sick leave to care for an injury or illness of the employee's adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent is limited to 160 hours (20 days) in any given twelve (12) month period;
- B. "Safety leave," as provided in Minnesota Statutes, section 181.9413(b), as amended. Employees may use up to 160 hours (20 days of an eight-hour shift) of sick leave for "safety leave" during any given twelve (12) month period.
- C. Any other purpose for which the City is required to allow an employee to use sick leave by State or federal law, including, but not limited to, Minnesota Statutes, section 181.9413, as amended.

When requesting sick leave for a scheduled or foreseeable absence, employees must notify the supervisor as soon as the employee is aware of the need to utilize sick leave prior to the start of a scheduled shift.

~~Sick leave accrual will cease if an employee is off of the City's payroll system for any reason whatsoever.~~

Commented [KS68]: Moved after the following section

To be eligible for sick leave with pay, an employee shall:

- A. Report as soon as possible to the employee's immediate supervisor as described above. If the need for sick is not foreseeable, the employee must notify his/her supervisor as soon as the employee becomes aware of the need for leave. The employee shall need to be absent and identify if the absence is due to the employee's illness or the employee's immediate family, as listed above;
- B. Keep the employee's immediate supervisor informed of such employee's need for continued absence; and
- C. To the extent allowable by law, for any absence that exceeds three days, upon request by the City Administrator ~~or BPU Department Head (for BPU employees only)~~, submit a medical certificate before the employee will be allowed to return to work.

Sick leave accrual will cease if an employee is off of the City's payroll system for any reason whatsoever.

To the extent allowable by law, the City reserves the right to require any employee returning from sick leave to provide a certificate stating that he or she is able to perform the essential functions of his or her position, with or without reasonable accommodation.

In case of disability caused by sickness or injury and covered by Workers Compensation, the City will pay to the employee only such sums, as together with Workers Compensation payments, will equal their base pay but never for a longer period than their accumulated sick leave and vacation leave. The time deducted from the employee's accumulated sick leave, until exhausted and then vacation, until exhausted, shall be the difference between the employee's normal gross pay and the payment received by the employee for workers compensation. An employee cannot receive more than the employee's normal take-home pay as a result of any workers compensation payment.

In such case, to the extent allowable by law, once sick leave is exhausted, the time deducted from accumulated vacation leave shall be in the same amount as the proportion of wages paid by the City bears to the entire base pay of the employee. No sick leave or vacation leave will be paid employees while actually working for others.

Subdivision 7. Extended Medical Leave

When medically necessary, and upon receipt of a medical certificate from an employee's treating physician, the City Administrator ~~or BPU Department Head (for BPU employees only)~~ may approve a request for a medical leave extension of up to 90 days due to the employee's serious medical condition or to care for a spouse, parent or child who has suffered a serious medical condition.

Before using unpaid leave under this section, the employee must use all paid leave. Leave granted pursuant to this Subdivision may run concurrently with leave under the Family and Medical Leave Act ("FMLA").

Employees will not earn or accumulate benefits or other compensation while on unpaid leave, except as required by law. A medical certificate attesting to the employee's fitness for duty shall be required prior to any employee returning to work from medical leave. Also, the City may require that the employee submit to an examination by a medical provider selected by the City to determine whether the employee is able to perform the essential functions of his or her job, with or without reasonable accommodation.

The Human Resource Director may consult with a physician or other expert to determine reasonable accommodations for any employee who is a ~~“qualified disabled”~~ employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.

Subdivision 8. Personal Leave

Upon written request of an employee, the City Council ~~or BPU Commission (for BPU employees only)~~ may grant an employee a leave of absence without pay for a period of up to 90 consecutive calendar days at its sole discretion.

Employees will not earn or accumulate leave, benefits, or other compensation while on unpaid leave except as required by law.

Subdivision 9. School Leave

To the extent required by law, Employees may take up to a total of sixteen (16) hours per twelve (12) month period of unpaid leave to attend school conferences and school-related activities related to the employee’s child, provided the conferences or other school-related activities cannot be scheduled during non-work hours. Employees taking leave for this purpose may, but are not required to, substitute vacation or compensatory time for any part of this unpaid leave.

Subdivision 10. Family & Medical Leave

Eligible employees, as determined by the Human Resource Director or designee, may be entitled to take unpaid leave pursuant to the Family and Medical Leave Act (“FMLA”) for the purposes described in 29 U.S.C. § 2612 (as amended). All such leave, including the responsibilities of the City and its employees related to such leave, is subject to the conditions prescribed in the FMLA and the Department of Labor’s regulations implementing the FMLA.

A. Restrictions on FMLA Leave

For additional information regarding FMLA leave, including the circumstances in which such leave may be taken, employees should consult the posted notices. In addition, as permitted by the FMLA, the City places the following restrictions on eligible employees’ use of FMLA leave:

1. The City has designated a “rolling” twelve (12) month period for purposes of determining employees’ entitlement to FMLA leave. The “rolling” twelve (12) month period is measured backward from the date the employee uses any FMLA leave.

2. Spouses employed by the City are permitted to take a combined total of twelve (12) work weeks of FMLA leave during a single twelve (12) month period if the FMLA is: (1) due to the birth of a son or daughter of the employees; (2) due to the placement of a son or daughter with the employees for adoption or foster care; or (3) in order to care for a parent of the eligible employee.
3. Employees who request leave under this policy based on: (1) their own serious health condition; (2) to care for a parent, spouse, or child's serious health condition; or (3) military caregiver leave, are required to submit a completed medical certification that complies with the requirements of the FMLA. Medical certification forms are available from Human Resources. The City reserves the right to request a second opinion, at the expense of the City, to the extent permitted by the FMLA. If the results of the employee's certification differs from the results of the City's certification, the City may obtain a third opinion at the City's expense. The City also reserves the right to require periodic recertification, to the extent allowed by the FMLA and to contact the certifying medical provider to authenticate or clarify the medical certification in lieu of seeking a second opinion. Separate certification may also be required regarding the nature of the family member's military service and/or the existence of a qualifying exigency, if leave is requested for that purpose.
4. Except in emergency situations, the employee is required to provide written notice of the need to take leave to his or her immediate Supervisor not less than thirty (30) days before the date the leave is scheduled to begin. If the leave is to begin in less than thirty (30) days, the employee shall provide such written notice as soon as practicable.
5. Employees are required to use all accrued sick leave, vacation leave, and any other accrued paid leave concurrently with leave provided under the FMLA. Employees with both accrued sick and vacation leave are required to use sick leave and compensatory time, if any, before using accrued vacation leave. The combined paid and unpaid leave cannot exceed the applicable twelve (12) week or twenty-six (26) week maximum FMLA leave time. FMLA leave may run concurrently with a worker's compensation absence if the on-the-job injury or illness also qualifies as a serious health condition under the FMLA.
6. Subject to the terms, conditions, and limitations of applicable plans, eligible employees are entitled under the FMLA to the same health insurance benefits provided by the City while on FMLA leave to the same extent as if the employee were not on FMLA leave. Employees who contribute toward their health care coverage must continue to make that contribution while on leave, either through payroll deduction (if using paid leave) or by personal check (if using unpaid leave). If the employee fails to return to work after taking family or medical

leave, the City may recover the premiums paid by the City for group health and life insurance unless the serious health condition of the spouse, child, parent or employee continues or for other circumstances beyond the control of the employee.

7. Vacation, sick, and holiday leave will not be earned during a period of unpaid FMLA leave. FMLA leave, whether paid or unpaid, will not constitute a break in service for purposes of computing years of service.
8. The City requires a medical certificate attesting to the employee's fitness for duty prior to the employee being allowed to return to work. The fitness for duty report must be based on the particular health condition(s) for which the leave was approved and must address whether the employee can perform the essential functions of the job. The Human Resource Director or designee may consult with a physician or other expert to determine reasonable accommodations for any employee who is a "qualified disabled" employee under the Americans with Disabilities Act. If a fitness for duty certification is required, the City may deny reinstatement until it is provided.
9. Records of FMLA leave will be kept along with normal personnel records except that any medical record(s) will be maintained separately in accordance with applicable laws.

B. Effect on Pension:

Employees should contact the Public Employees Retirement Association ("PERA") for information about how FMLA leave may affect their retirement benefits.

C. Training:

Employees who have missed training sessions while on FMLA leave will be given a reasonable opportunity to make them up upon returning to work.

Subdivision 11. Department Head Absenteeism Notification

Except in the event of an emergency that prevents such notice, Department Heads shall notify the City Administrator prior to any absence from the office.

Subdivision 12. Catastrophic Leave Bank

POLICY STATEMENT

The City of Brainerd recognizes that occasions arise when employees may have exhausted their vacation leave, sick leave and compensatory time, due to a non-work related injury or prolonged illness that has not yet qualified for long-term disability insurance benefits. It is the intent of this policy to provide an opportunity for City employees to voluntarily donate vacation leave hours to an emergency medical leave bank for use by other City employees who demonstrate a catastrophic medical emergency. The program is voluntary in nature and does not guarantee any resulting benefit to any employee in need nor does it require participation of any employee. This policy applies to employees of bargaining units upon agreement of their exclusive representative.

Eligibility

All non-probationary City employees, including members of collective bargaining units whose exclusive representatives have agreed to this policy, are eligible to participate in this Catastrophic Medical Leave Sharing Bank ("CMLSB"). Donation to the bank is entirely voluntary.

Definitions

- A. "Catastrophic Medical Emergency" is a major life-threatening disease or illness or non-work related major injury involving a prolonged absence from work. Per the dictionary, a catastrophe is a momentous tragic event ranging from extreme misfortune to utter overthrow or ruin.

Examples may include: heart attack, stroke, organ transplant, cancer or major non-work-related injury.

The medical emergency must result in the incapacitation of the employee, spouse, or child/stepchild for a minimum of 80 consecutive work hours (subsequent intermittent absences involving the same illness or condition shall also qualify) which requires the employee to take time off from work and creates a financial hardship because all of the employee's paid leave has been exhausted.

"Catastrophic medical emergency" is specifically not defined as all "serious health conditions" as defined under the FMLA.

- B. "Verification of catastrophic illness or injury" shall consist of a physician's statement verifying that:
1. The employee is suffering from a major life-threatening disease, illness or non-work related major injury requiring a prolonged absence from work; or

Commented [KS69]: DH asked if a new hire having a baby is able to use this bank? Please verify if this changed and is now an option.

Commented [CRS70R69]: No. The IRS regulations on defining catastrophic leave have not changed. An ordinary pregnancy and delivery would not qualify as grounds for using catastrophic leave under those regulations.

Commented [KS71R69]: Christian also clarified that a normal and safe pregnancy is NOT considered a catastrophic medical emergency.

2. That the employee must be present to care for the employee's spouse, child or stepchild who is suffering from a major life-threatening disease or illness or major injury; and
 3. A brief description of the nature of the illness or injury and the anticipated duration of the incapacity.
 4. The Verification of catastrophic illness or injury shall be in addition to the FMLA certification of health care provider.
- C. "Donor" is an employee who donates vacation leave to the Emergency Medical Leave Sharing Bank.
- D. "Applicant" or "Recipient" is a non-probationary City employee who has applied for or received leave from the CMLSB.
- E. "Committee" as referenced in this policy shall consist of the City Administrator, Human Resource Director, and the Chair of the Personnel and Finance Committee.

Catastrophic Medical Leave Sharing Bank BENEFITS AND LIMITATIONS

- A. The applicant must have exhausted all of the employee's own accrued vacation, sick leave, and compensatory time in order to receive any Catastrophic Medical Leave ("CML").
- B. The applicant may apply for CML while still in paid status, but no sooner than 80 hours before the exhaustion of all of the applicant's paid leave or CML.
- C. An applicant may be eligible to receive up to a maximum of 160 hours of CML per request, which shall be placed in the recipient's sick leave bank as needed per pay period in increments of no more than 80 hours at a time. Additional requests for CML may be submitted upon the anticipated exhaustion of the initial hours and medical verification of continued need, but the total CML granted to one recipient in relation to one medical emergency shall not exceed 480 hours. Part-time employees shall be eligible to receive CML on a pro-rata basis.
- D. Recipients of CML must use the leave only for the Catastrophic Medical Emergency. Any CML which is not used for the medical emergency shall be returned to the bank and cannot be retained by the recipient.
- E. An applicant shall be required to apply for FMLA leave in conjunction with the application for CML. Catastrophic Medical Leave time will run concurrently with any applicable FMLA leave.

- F. The recipient shall be in a paid status when using CML for the purpose of receiving benefits. When a pay period includes a holiday, a participant using CML shall receive holiday pay provided they are in a pay status the last regular shift prior to, and the first regular shift following the holiday.
- G. A recipient's CML pay will continue to be taxed in accordance with state and federal law, and all authorized deductions will continue to be deducted from the participant's paycheck, provided sufficient wages are available.
- H. All time donated to the pool shall be converted to a dollar amount based upon the donor's hourly rate of pay. All CML shall be used at the recipient's rate of pay.
- I. Leave from the CML may not be used for illness or disability which qualifies the participant for Worker's Compensation, long-term disability, PERA disability or Social Security benefits.
- J. An applicant shall be required to apply for long-term disability and PERA disability, as applicable, for the employee's own medical condition which results in the employee's absence from work for more than 90 calendar days, whether before or after the employee has exhausted his/her own paid leave. The recipient applicant shall provide verification of such application.
- K. Leave donated to the CML Bank shall remain in the bank from year to year and shall be available to eligible employees. Donation of leave to the CML Bank is irrevocable.

Application Process

- A. Applicants shall be required to complete a form setting forth their request for CML, the reason, number of hours requested and the anticipated duration of the medical emergency. A new request form shall accompany each subsequent request. The CML Request form will be turned into the Human Resource Director prior to the start of the leave if possible. Requests will be reviewed by the Committee.
- B. The Applicant shall sign a waiver of liability in connection with the CML request and any subsequent request. The applicant shall provide a "verification of catastrophic illness or injury" with the request form or within (10) calendar days of the request. In the event that the Verification is not submitted in a timely manner, the CML request may be considered by the Committee but no leave will be disbursed to the applicant until the verification is received and reviewed by the committee.
- C. Applicants who are denied CML or whose withdrawal is not renewed or is terminated may, within fifteen (15) calendar days of denial, appeal the denial, non-renewal or termination by providing new or additional information to the Committee and completing a supplemental application

and waiver. The final decision will be reported to the applicant, in writing, within ten (10) working days of the decision. This decision of the Committee is final. Such final authority is not subject to the grievance procedure or litigation and the applicant shall specifically waive any rights to review by any of these options.

- D. All requests for CML, verifications of catastrophic illness or injury and other documentation related to an applicant's medical condition or that of the applicant's family member shall be kept confidential and shall only be disclosed as necessary to administer request for withdrawal.
- E. If the CML bank does not have sufficient hours to fund a withdrawal request, the City is under no obligation to pay the applicant any funds. If a withdrawal request is denied in whole or in part because of insufficient dollars to fund the request, the applicant shall be notified in writing of the reason for the denial.

DONATION PROCESS

- A. A regular full or part time employee may donate vacation leave to the Catastrophic Medical Leave Sharing Bank twice annually, which shall occur with the first pay period in December or June. In the event that the CML Bank becomes depleted, the City Council may, in its sole discretion, authorize a third open window period for donation to the Bank.
- B. Donors are required to have a minimum of 80 hours of vacation leave available to them in their accrued vacation leave bank after a donation is made.
- C. Donation to the CML bank is irrevocable.

TENNESSEN WARNING

Information provided pursuant to the Catastrophic Leave Donation Policy is classified as personnel data pursuant to Minnesota Statutes, section 13.43, as amended. You are not legally required to participate in the program and are therefore not required to provide any information. If you choose to participate in this voluntary program, you will be required to provide the information set forth above in order to donate or receive donated leave.

The requested and required information regarding leave donation requests, including medical information and the basis for leave donation requests will be disclosed to those individuals whose work assignments reasonably require access, including committee members, insurance vendors, consultants and attorneys. The information may also be used to make decisions regarding your eligibility for extended sick leave, family and medical leave, and other leaves; your eligibility for workplace accommodations, including accommodations for disabilities; and other benefits. The information may also be shared

with other agencies authorized by law to receive specific data, including but not limited to: Civil/human rights; Worker's Compensation; Unemployment Compensation; and Labor Contracts.

Information regarding the value of donated leave as taxable income will be reported to the Minnesota Department of Revenue, the Internal Revenue Services and security tax programs.

SECTION 14. EMPLOYEE INSURANCE

Subdivision 1. Benefits - Health Insurance

The City provides a medical coverage insurance plan for eligible employees, as described in the Summary Plan Description of Benefits.

The insurance coverage takes effect the first day of the ~~calendar~~ month coinciding with or immediately following the employee's ~~following~~ date of hire, except as required by applicable law, including, but not limited to, the Affordable Care Act. The City provides contributions to health insurance premiums as approved annually by the City Council.

The City will contribute towards the health insurance premiums of employees and elected officials as described in Exhibit A to this Policy Manual. Information regarding health insurance benefits will be provided by the Human Resource Director for new employees and periodically thereafter. Any further questions pertaining to insurance coverage shall be directed to the Human Resource Director, or designee.

Subdivision 2. Benefits - Life and LTD Insurance

The City provides a term life insurance policy for all eligible employees, as described in Exhibit B and the applicable Summary Plan Description. The plan takes effect the first day of the calendar month ~~coincident-coinciding~~ with or immediately next following completion of six months of employment. The amount of life insurance coverage provided is described in an applicable collective bargaining agreement or determined by the City Council. For elected officials, Department Heads, and non-union Supervisors, the City will provide life insurance in the face amount described in Exhibit B.

The terms of the long-term disability coverage, including the formula used to calculate the benefit and the waiting period before an employee may receive long-term disability benefits will be established by the City, as described in Exhibit B to this Policy Manual.

Subdivision 3. Benefits - Workers Compensation

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available and the nature of injury

Commented [KS72]: This language is from the LMC sample EPM - we want to stress that all injuries and illness (no matter how minor) must be reported to their supervisor.

or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to their supervisor and make arrangements for a medical appointment.

Workers' compensation benefits and procedures to return to work will be applied according to applicable state and federal laws.

Pursuant to Minnesota State law, the officials of the City elected or appointed for a regular term of office or appointed to complete the unexpired portion of a regular term are included in the coverage of the Minnesota Workers' Compensation Act.

SECTION 15. HEALTH CARE SAVINGS PLAN

The City Administrator, Department Heads, and Non-~~Contract Union~~ Supervisors are eligible to participate in the Minnesota Health Care Savings Plan ("HCSP"). This plan is pursuant to the Minnesota Statutes, section 352.98 (as amended). Details regarding employees' participation in the Minnesota Health Care Savings Plan are included in Exhibit C. Employees should direct any questions about participation in this plan to the Human Resource Director.

SECTION 16. CAFETERIA PLAN

The City of Brainerd offers its employees a cafeteria plan. The plan allows employees to pay for health insurance premiums, and medical and/or dependent care expenses on a before-tax basis.

The flexible spending program is divided into three (3) separate accounts, which are summarized below:

A. Insurance Premiums Deducted from Paychecks: The amount of premium which is deducted per pay period for health insurance coverage per settled wage/benefits negotiations. Some voluntary insurance deductions may also be eligible.

B. Medical Expenses: Out-of-pocket medical, dental & vision expenses not covered by insurance.

C. Dependent/Childcare Expenses: Dependent care expenses for the care of a child under age 13 and/or a dependent regardless of age who requires care due to an inability to care for himself or herself.

The law limits the maximum contributions that employees can make to their flexible

spending account and the specific expenses that can be paid out of such accounts. Employees should contact the Human Resources office for additional details.

Further information on the City's Cafeteria Plan may be obtained from the Human Resource Director.

SECTION 17. EDUCATION, TRAINING AND DEVELOPMENT

The City Council has determined that it is in the best interest of the City of Brainerd to support continuing education, training, and development of staff members in order that they may carry out their duties in the most efficient and productive manner possible.

To further this policy the City Council does authorize payment for education, training and/or staff development directly related to an employee's current position in order to increase his/her efficiency and productivity in that position in accordance with the following criteria and procedure.

- A. EDUCATION. The City may reimburse a regular employee for tuition expenses and course fees under certain circumstances. There shall be no reimbursement for mileage/parking expense. Qualifying tests (SAT, ACT, GRE, CLEP, etc.), required books, student activity fees, and material costs will not be reimbursed. Courses for which the employee receives another source of funding, such as a grant or scholarship, will not be eligible for reimbursement.
1. Pre-Approval. Prior to starting a class or classes, and in any event no later than August 1 of each year, the employee must obtain written approval from the employee's Department Head and the City Administrator or BPU Commission (for BPU employees only) that the class, certificate, or degree is job related and that the request would benefit the City. Specifically, the courses must be from an accredited institution and directly related to the employee's current assignment or has the potential for promotional opportunities for the employee. The Department Head must verify that the Department budget will cover this expense before recommending approval to the City Administrator or BPU Commission. Each approval shall be limited to a single course or academic term. Enrollment in a multiple-year course of study, or approval of reimbursement for any portion of such a course of study does not guarantee that funding will be available in subsequent years or that the City will approve any future course of study, even if related to one that was approved in the past. An employee who is requesting reimbursement for education expenses must have been a regular employee of the City for at least one year before the scheduled course is scheduled to begin.
 2. Satisfactory Completion. The employee shall provide the Department Head with proof of satisfactory completion with a grade of "B" or better of any course requested for reimbursement, prior to reimbursement.
 3. Employees seeking reimbursement must present a paid fee statement and grade transcript in order to receive reimbursement.
 4. Reimbursement for classes taken at private institutions shall not exceed the tuition charged by the Minnesota State University system.

Commented [KS73]: Jennifer felt references to the BPU Commission should remain in this section as the BPU Commission oversees the BPU budget.

Commented [CRS74R73]: That is fine.

5. Time Off. If class is during the regular workday, an employee must take that time as compensatory time, vacation time, or leave of absence without pay, or the employee can request a flexible scheduling arrangement, subject to approval by the Department Head and City Administrator or BPU Commission (for BPU employees only). Classes or course work taken by the employee must not disrupt or interfere with the normal Departmental operations. Completion of preparatory work and homework are not permitted during scheduled work hours.
6. Continued Employment. The employee must remain with the City of Brainerd following completion of the course for which the City provided reimbursement pursuant to this policy, or else return to the City the expense amount(s) reimbursed pursuant to this policy. If the employee voluntarily terminates employment with the City after receiving education reimbursement pursuant to this policy, the employee must repay the reimbursed tuition immediately according to the following schedule:
 - Up to 1 year after receiving reimbursement – 100% of the tuition reimbursement
 - 1 year but less than 2 years after receiving reimbursement – 66% of tuition reimbursement
 - 2 years but less than 3 years after receiving reimbursement – 33% of tuition reimbursement
 - 3 years or longer after receiving reimbursement – 0% of tuition reimbursement
7. Funding Procedure. Subject to paragraph (d), above, the City will reimburse its employees for tuition expenses up to a maximum of \$1,500 per calendar year with a total lifetime maximum of \$6,000, ~~which will be indexed by the same percentage as employee salaries each year.~~ All reimbursements shall be subject to applicable IRS regulations. The scope, terms and conditions of this reimbursement shall be defined and interpreted by the City Administrator or BPU Commission (for BPU employees only). Reimbursement is further limited based on availability of budgeted funds. Reimbursements are on a first come, first served basis and shall not exceed the department budget. In the event a department receives reimbursement requests that exceed its budget allocation for education reimbursement, the Department Head and City Administrator (or BPU Commission, for BPU employees only) shall have the discretion to apportion the available funds, including the discretion to refuse reimbursement.
8. The Human Resource Director will develop and maintain forms for requesting approval of class eligibility prior to registration and forms requesting reimbursement after successful completion of classes.

B. **TRAINING** AND DEVELOPMENT.

1. The City will pay for job-related, position specific training approved by the Department Head and City Administrator or BPU Commission (for BPU employees only) and deemed necessary to effectively complete the requirements of the position, provided there is adequate funding in the budget appropriation for training, as determined by the Department Head in consultation with the City Administrator or BPU Commission (for BPU employees only).

Commented [KS75]: Can all of B to end of Section be removed? Is all addressed in revised Section 18?

Commented [KS76R75]: Per Christian - no. This describes the employer paying for training and Section 18 is for employee reimbursements.

2. Subject to Paragraph 1 of this section, tThe City will pay for, or reimburse employees for, any and all training required by the City, including training required to attain or maintain job-related certification. Payment of training and/or conference expenses must not exceed \$1,500 per employee per fiscal year, excluding travel and subsistence costs. Exceptions must receive approval by the City Administrator or BPU Commission for BPU employees.

Commented [KS77]: This language was in the LMC Personnel Policy Template. I listed \$1,500 as it matched the Education Section - that amount could be changed.

3. Attendance at training or conferences out of state is generally approved only if the training or conference is not available locally. All requests for out of state travel and/or national conferences that are applicable to their current position are reviewed for approval/disapproval by the Ceity Administrator or BPU Commission for BPU employees.

Formatted: Justified

Commented [IH78]: Added from LMC Personnel Policy Template

3.4. The Department Heads will maintain records on all employee training done at City expense, and report annually on the training received and funds expended to the City Council or BPU Commission (for BPU Department Heads only).

4.5. The procedure for payment for training and development is as follows:

a. A request for payment of fees and course materials must be approved by the City Administrator or BPU Department Head (for BPU employees only), or designee and the City Administrator or BPU Commission (for BPU employees only). -Such approval will only be granted when it can be demonstrated that the training directly relates to the employee's present position and that it will potentially enable the employee to perform his/her duties in a more efficient and productive manner.

Commented [KS79]: Jennifer felt leaving BPU DH was correct if included in BPU's budget.

b. All course materials paid for by the City are the property of the City of Brainerd and shall be brought to the Department Head of the appropriate Department upon completion of the training.

Commented [IH80]: Looking into BS & A for easier tracking of training that supervisors have access to.

For purposes of this policy, training and development will include seminars, workshops, and training sessions designed to provide specific applications to an employee's present position. Such training must be approved by the Department Head or the City Administrator. The supervisor and the city administrator are responsible for determining

Commented [KS81]: This was already noted under the employee reimbursement section.

~~job-relatedness and approving or disapproving training and conference attendance.~~

The City Administrator ~~or BPU Department Head (for BPU employees only)~~ may grant a leave of absence with or without pay to an employee for the purpose of attending schools, meetings, conferences, and other functions which are a benefit to the City of Brainerd, if, in the City Administrator's judgment ~~(or that of the BPU Department Head, for BPU employees only)~~, such leave will not cause disruption of service.

All training and education opportunities described in this policy are subject to the availability of funds and the budgets of individual departments as well as the City's overall budget.

Commented [KS82]: I thought the BPU reference should be removed here as it addresses a Leave of Absence instead of just being related to the BPU budget.

Commented [CRS83R82]: Agreed.

~~SECTION 18. EMPLOYMENT RELATED REIMBURSEMENTS~~

~~Subdivision 1. Mileage, Meals and Lodging~~

~~If employees are required to travel outside of the area in the performance of their job duties, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred. However, the City/BPU will not reimburse employees for meals connected with training or meetings within the Brainerd/Baxter area, unless the training or meeting is held as a breakfast, lunch or dinner meeting.~~

~~The City Administrator or applicable BPU Department Head is responsible for determining job-relatedness and approving or disapproving training, conference or meeting attendance. Such authorization must be received by the employee prior to incurring the actual expenses and shall be subject to the availability of funds. Expenses will be reimbursed as follows:~~

~~Mileage for use of personal vehicle when traveling to or from a training or work location other than the employee's regular work location is reimbursed at the rate established by the Internal Revenue Service, based on a statement from the employee as to number of miles traveled. All mileage must be computed from the employee's regular work location, or from home, if the employee's home is closer to the destination. For purposes of this policy, the term "regular work location" means the work location from which the employee departs for the regular performance of official duties.~~

~~Reimbursement for travel by bus, airline, or train will be at the actual rate charged (which must be the lowest rate available for the mode transportation in question). No payment will be made without a receipt accompanying the voucher. All airline and rental car travel arrangements must be approved by the City Administrator or applicable BPU Department Head prior to booking.~~

~~Lodging—Expenses will be paid based upon receipt from the motel or hotel. The City will reimburse for lodging at the lowest rate for a single occupancy room. All hotels or motels must be approved by the City Administrator or applicable BPU Department Head prior to booking.~~

~~Meals.—Actual meal cost, inclusive of sales tax and a reasonable gratuity up to 20%, and not to exceed a total \$47.00 per day shall be reimbursed according to the following. No expenses for alcoholic beverages may be reimbursed. Meals eligible for reimbursement are breakfast, lunch, and dinner. Meals are reimbursable to employees absent from their normal place of employment or residence on official business at the customary mealtime. No claim for breakfast is allowable when departure from home or regular work location occurs after 7:00 a.m. No claim for lunch is allowable if the employee's regular work~~

~~location could have been reached between the hours of 11:00 a.m. and 1:00 p.m. No claim for dinner is allowable if the employee's residence or regular work location could have been reached before 6:30 p.m. Times of departure and arrival should be listed for all trips where meal expense is claimed.~~

~~Claims for meals for employees will be for the actual amount expended and will include tips or gratuities. Claims for meals will not exceed the following maximum allowance, or the maximum allowed by applicable law, if lower than the below amount, and must be accompanied by an itemized receipt. Credit card receipts stating the amount without itemization of the purchase is not sufficient:~~

Breakfast	\$10.00
Lunch	\$14.00
Dinner	\$23.00

~~Meals included as part of a conference, convention, or similar program will be paid in full, whether those meals are included in any registration or tuition fees or presented as a separate charge, and regardless of whether the cost exceeds the established maximum. All such expenses must be approved in advance by the applicable Department Head prior to registration. The Department Head will notify the City Administrator (or Human Resource Director, for BPU employees only) upon approval of any such expenses.~~

~~Parking fees will be allowed if a receipt is given.~~

~~Registration fees paid by an employee will be reimbursed upon a receipt for the funds expended.~~

~~Mayor and City Council members, when out of town on intergovernmental business, shall receive a per diem of \$15.00 per day.~~

~~Department Heads are not required to obtain approval for budgeted travel or training activities within the State of Minnesota, including attendance at such training by non-union supervisors who report to them, but must provide a written report of these items to the City Administrator or BPU Commission (for BPU Department Heads only), if requested. All out-of-state travel or training, other than training attended only by the City Administrator or Department Heads, must receive prior approval from the City Administrator or BPU Commission (for BPU employees only).~~

~~Subdivision 2. Prescription and Non-Prescription Safety Glasses~~

~~The City will pay the cost of prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions, up to a maximum of the base cost as stated in the City's agreement with a local vision provider(s). The employee is responsible for all other costs associated with obtaining the prescription, including eye examination.~~

~~The City will provide non-prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions.~~

~~Subdivision 3. Safety Boot Policy~~

~~The City will pay up to 50% of the cost for safety boots for employees required by OSHA regulations to wear same in performing their work functions.~~

~~Subdivision 4. Damage to Personal Items~~

~~An employee's personal items, such as watches and eyeglasses, which are damaged or destroyed during the course of his/her work shall be reimbursed by the City for the value of the item damaged or the cost of the repair, if possible, up to \$150.00 per employee annually. In order to receive such reimbursement, the employee must submit a detailed statement describing the item, how it was damaged, whether the employee believes it to be repairable, how the employee determined the value of the item, and any estimated costs of repair.~~

~~Subdivision 5. Cold Weather Outerwear~~

~~Some employees may be required to work outdoors in cold weather for extended periods of time. The City will furnish each such employee one set of insulated cold weather outerwear at a frequency of no greater than once every 36 months, unless damaged beyond repair, as determined at the discretion of the Department Head. The cold weather outerwear will consist of three pieces — a coat, a vest, and a bib overall, and will be insulated brown duck canvas or ANSI, with a City of Brainerd insignia (or BPU insignia, as appropriate) on the coat. The employee will be responsible to keep his or her cold weather outerwear clean and in good repair at all times. The cold weather outerwear shall be kept at work at all times, except for the purpose of cleaning and/or repair to the outerwear.~~

SECTION 18. EMPLOYMENT RELATED REIMBURSEMENTS

Commented [KS84]: Updates for this Section were provided by the Finance Departments.

Subdivision 1. Travel & Meal Reimbursement

If employees are required to travel outside of the area in the performance of their job duties, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred, consistent with this Policy.

Travel Approval

Each Department Head is responsible for ensuring that employee travel is approved only if such travel is for City business and is consistent with City policy. Department Heads are responsible for approving all travel requests within their respective departments and must ensure that departmental budget dollars are sufficient to cover requested travel prior to approving. Requests for travel by Department Heads must have prior approval by the City Administrator. The following approvals are needed prior to employee travel:

- 1) Same Day with Overnight Travel** - Department Head approval is required.
- 2) Out of State, More Than 300 Miles From Brainerd** - All out-of-state travel exceeding a 300-mile radius from Brainerd must be approved within the annual budget process which is approved by the City Council and BPU Commission. All employees must receive prior approval from their Department Head. Unless otherwise approved by the City Council or BPU Commission, an employee is only eligible to travel out-of-state more than 300 miles from Brainerd on City business once every other year.
- 3) Out of State, Less Than 300 Miles From Brainerd** - All out-of-state travel within a 300-mile radius of Brainerd must be approved by the Department Head or City Administrator and does not require City Council or BPU Commission approval.

Such authorization must be received by the employee prior to incurring the actual expenses and shall be subject to the availability of funds and the terms of this Policy.

Reimbursable Expenses

1) Transportation

Several means of transportation exist and each travel request shall consider the least-costly method. For the majority of travel requests, a City vehicle provides the least-cost to the City and shall be considered before any other means. Vehicles from other departments may be available and shall be a consideration. Unless otherwise authorized by the Department Head or City Administrator, all City-related transportation must be by City vehicle.

- a) City Vehicle** – All direct expenses, other than personal expenses, incurred with regard to the use of a City vehicle will be reimbursed, including fuel, oil, and maintenance/repair expenses. Only City

employees are authorized and insured to drive a city owned vehicle. The use of a City vehicle is otherwise subject to the City's policies.

b) **Personal Vehicle** – When a city vehicle is not available, a personal vehicle may be authorized for use. Mileage for use of personal vehicle when traveling to or from a training or work location other than the employee's regular work location is reimbursed at the rate established by the Internal Revenue Service, based on a statement from the employee as to number of miles traveled. All mileage must be computed from the employee's regular work location, or from home, if the employee's home is closer to the destination. For purposes of this policy, the term "regular work location" means the work location from which the employee departs for the regular performance of official duties.

c) **Airplane/Other** – travel by any means other than by City owned vehicle or personal vehicle must be approved by the City Administrator, regardless of whether the travel is in-state or out-of-state and regardless of the distance of the travel from the City of Brainerd. Reimbursement for travel by bus, airline train, taxi service, car service, rental car, or other mode of consumer transit will be at the actual rate charged (which must be the lowest rate available for the mode transportation in question). No payment will be made without a receipt accompanying the voucher.

d) **Other related costs** – Reasonable parking fees, car rental, and fares for rail, bus, taxis and shuttles are all subject to reimbursement if related to City business. Taxis and shuttles reimbursement may include a maximum gratuity of 20%. Gratuities in excess of 20% will not be reimbursed by the City. A standard model sedan shall be used when renting a car unless unusual circumstances dictate otherwise.

2) Lodging

The City will reimburse the reasonable cost of lodging for training, seminars or conventions of two or more days generally if the event site is **outside a 50-mile radius** of Brainerd. All lodging expenses will be paid based upon receipt from the motel or hotel. The City will reimburse for lodging at the lowest rate for a single occupancy room. All hotels or motels must be approved by the City Administrator or applicable BPU Department Head (or designee) prior to booking.

An increase in lodging rate due to family members staying is not reimbursable. The employee will be reimbursed only the cost of a single occupancy room. All lodging reimbursements are subject to a maximum amount determined by the City Council and identified in the City's expense reimbursement form.

Lodging reimbursement will not be approved for lodging in the event the traveling employee could arrive at the destination on time by leaving Brainerd by 6:30 AM nor will reimbursement be approved if the employee could return to Brainerd by 9:00 PM. No reimbursement for lodging or time will be approved in the event the traveling employee elects to drive a personal vehicle in lieu of City recommended air travel. Entertainment expenses incurred will not be reimbursed, such as in-room movies, mini-bar and optional entertainment-type events including golf, gambling etc. that may be provided at conferences.

3) Meals

The City will reimburse the cost of job-related meals if an employee's travel is outside of the Brainerd/Baxter area or if a business meeting is held during typical meal hours. The following guidelines are in place for eligibility of reimbursement for a meal:

<u>Breakfast:</u>	<u>The employee is in travel status before 6:00 AM</u>
<u>Lunch:</u>	<u>The employee is in travel status between the entire time of 11:00 AM and 1:00 PM</u>
<u>Dinner:</u>	<u>The employee is in travel status until 8:00 PM</u>

- a) Meetings scheduled and held during typical meal hours do not automatically necessitate that a meal will be provided at City expense. *The departmental issued credit card shall not be used to pay for meals.*
- b) The maximum amounts per meal and per day attached to the expense reimbursement form apply to the meal, non-alcoholic beverage, sales tax and gratuity.
- c) Gratuities paid by the employee over 20% will not be reimbursed.
- d) Payments for meals cannot be combined in any fashion in order to reimburse an employee for a meal costing more than the maximum amount listed per specific meal. For example, an employee cannot decline a breakfast and/or lunch reimbursement to justify reimbursement of a \$60 dinner.
- e) Meals included as part of a conference, convention, or similar program will be paid in full, whether those meals are included in any registration or tuition fees or presented as a separate charge, and regardless of whether the cost exceeds the established maximum. All such expenses must be approved in advance by the applicable Department Head prior to registration. The Department Head will notify the City Administrator upon approval of any such expenses. Employees are expected to take advantage of meals provided by the conference or seminar. The City will not reimburse an employee for a purchased meal when a meal was provided by the event.
- f) If more than one employee is present at a job-related meal, one employee may pay for the entire meal cost of all employees. The reimbursement request shall clearly identify each employee present for the meal and each employee for whom the employee purchased a meal.

- g) If non-city personnel are present at a job-related meal, the city may reimburse the paying employee for the cost of the meal(s) of the individual(s) if an itemized receipt and a form indicating who attended, where the meal was held and the city-related purpose for the meal is submitted and approved by the Department Head and City Administrator. Reimbursement of a non-employee's meal is subject to the same dollar limit as the employee.
- h) When family members are present for a meal and the employee is claiming reimbursement for his/her meal, a separate detailed receipt for the employee's meal shall be requested.

4) Registration or Membership Cost

The City will reimburse the costs for registration, training and membership incurred to attend conferences, seminars and training sessions. A check request or credit card receipt shall be submitted to the City's accounts payable department prior to the event for payment of this type of cost, in addition to obtaining the other approvals required by this Policy. The request shall include the necessary documentation evidencing the amount payable. A departmental credit card may also be used for payment based upon receipt of all necessary travel approvals prior to making payment. Departments shall strive to utilize any early registration discounts, when available.

5) Non-Reimbursable Meal and Travel Costs

- a. Alcoholic beverages – whether consumed by an employee or a non-employee
- b. Gratuities exceeding 20%
- c. Snacks and other food/beverages outside of the daily meal reimbursements
- d. Meals or events for spouses or family members traveling with an employee
- e. Meals when an event provides for a meal
- f. Private automobile expenses, including gas, oil, repairs
- g. Traffic citations or fines
- h. Travel between an employee's home and work facility
- i. Entertainment expenses
- j. In-room movies, mini-bar or other hotel services not required for City business
- k. Optional entertainment events unless included as part of the overall conference registration fee (e.g. optional golf, sporting events, concerts, and other performances)
- l. Personal losses incurred while on City business
- m. Other costs that are not directly related to City business, as determined by the City Administrator

City Representation

Employees shall be aware at all times that they are representing the City while

traveling out-of-town for official City business. Employees given the opportunity to be away from their regular work site are expected to perform in a similar manner as if they were still at work, including following all applicable City policies as if they were at their regular work site. An employee's conduct during a work-related trip or while otherwise representing the City will be treated as if it occurred during regular working hours and at the regular work site. At no times shall alcoholic beverages be consumed by any person(s) driving or riding in a City vehicle.

Subdivision 2. Prescription and Non-Prescription Safety Glasses

The City will pay the cost of prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions, up to a maximum of the base cost as stated in the City's agreement with a local vision provider(s). The employee is responsible for all other costs associated with obtaining the prescription, including eye examination.

The City will provide non-prescription safety glasses for employees required by OSHA regulations to wear same in performing their work functions.

Subdivision 3. Safety Boot Policy

The City will pay annually up to 50% of the cost for safety boots for employees required by OSHA regulations to wear same in performing their work functions.

Subdivision 4. Damage to Personal Items

An employee's personal items, such as watches and prescription eyewear, which are damaged or destroyed during the course of his/her work shall be reimbursed by the City for the value of the item damaged or the cost of the repair, if possible, up to \$150 per employee annually up to \$450 per employee in a three (3) year timeframe. In order to receive such reimbursement, the employee must submit a detailed statement describing the item, how it was damaged, whether the employee believes it to be reparable, how the employee determined the value of the item, and any estimated costs of repair.

Commented [KS85]: This change follows union contract provisions.

Subdivision 5. Cold Weather Outerwear

Some employees may be required to work outdoors in cold weather for extended periods of time. The City will furnish each such employee one set of insulated cold weather outerwear at a frequency of no greater than once every 36 months, unless damaged beyond repair, as determined at the discretion of the Department Head. The cold weather outerwear will consist of three pieces - a coat, a vest, and a bib overall, and will be insulated brown duck canvas or ANSI, with a City of Brainerd insignia (or BPU insignia, as appropriate) on the coat. The employee will be responsible to keep his or

her cold weather outerwear clean and in good repair at all times. The cold weather outerwear shall be kept at work at all times, except for the purpose of cleaning and/or repair to the outerwear.

Subdivision 6. Personal Cell Phone Stipend

Employees whose work requires the use of a cell phone and who have been designated to receive a cell phone stipend by the City Council, ~~BPU Commission (for BPU employees only)~~, or designee in their sole discretion will receive a monthly stipend in the amount determined by the City Administrator ~~or BPU Commission (for BPU employees only)~~. At this time, no additional employees will be granted permission for this benefit. Employees receiving a stipend are responsible for:

- A. Providing proof of purchase/lease of cell service, and other documents prescribed by the City to activate and maintain stipend payments, at intervals to be determined by the City Administrator ~~or BPU Commission (for BPU employees only)~~;
- B. Purchase, replacement, repair, or service or operational questions of the phone will be the responsibility of the employee and at the employee's sole expense;
- C. Using a secure password, PIN, or gesture to prevent unauthorized access;
- D. Procuring and maintaining cellular service from a reliable carrier who provides service in the City service area;
- E. Limiting personal use of the cell phone during work hours so as not to interfere with City business or the performance of the employee's job;
- F. Agreeing that their cell phone may be physically or remotely accessed, tracked, modified, or wiped based on City security needs.

The cell phone stipend is intended to cover approximate costs of the employee's cell phone expenses related to work duties. Initial purchase of the cell phone, accessory equipment, and activation fees will be the responsibility of the employee, as will maintenance, insurance, and repair costs (if any). The employee will pay any and all costs exceeding the amount of the cell phone stipend. No stipend will be paid when an employee is in an unpaid leave status for more than 30 days or duties change in such a manner which no longer justifies the payment.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal e-mails, text messages, and social media messages created, received, collected, maintained, or generated on an employee's personal cellular device by virtue of his or her position with the City are subject to those laws.

Commented [CRS86]: Why was this provision deleted?

Commented [KS87R86]: After discussing, it was determined to leave in language.

Subdivision 7. Approval of Expenses

~~All claims for reimbursement must be submitted by the end of the month following the month in which the expense was incurred. As discussed above, detailed, itemized receipts shall be submitted with the claim for reimbursement.~~

~~Approval of all budgeted travel expenses incurred by employees, other than out of state travel will be subject to review and approval by the Department Head. Out of state travel must receive approval of the City Administrator (or BPU Commission, for BPU employees only) as described above. All travel expenses in excess of a department's budgeted travel or budget must be approved by the City Council (or BPU Commission, for BPU departments only) prior to being incurred.~~

Subdivision 7. Approval of Expenses

Employees shall submit an expense reimbursement claim no later than **60 days** from the date the expense was paid or incurred. Requests for reimbursement must be accompanied by a signed Employee Expense Reimbursement Form, as updated from time-to-time by the City. As discussed in this Policy, detailed, itemized receipts and other information shall be submitted with the claim for reimbursement, depending on the type of expense.

The City shall annually and periodically provide an updated Employee Expense Reimbursement Form. This form shall be used for all reimbursement requests related to approved travel or work-related expenses paid by an employee.

- 1) **Detailed Receipts** – each item submitted for City reimbursement must be supported by an itemized receipt indicating a reasonable explanation for the expense. All receipts shall be attached to each reimbursement request.
 - a. Meals will be reimbursed based on a detailed itemized receipt. When a credit card is used to purchase the meal, both an itemized receipt and a credit card charge slip indicating the tip amount shall be submitted.
 - b. Receipts for parking and taxis may not be available and may be submitted for reimbursement without a receipt.
 - c. Mileage reimbursement for the use of a personal vehicle shall detail not only the mileage but also the location traveled and the business reason for travel.
 - d. Proper departmental expense codes shall be used for each line item.
 - e. Unsupported expenses will not be reimbursed. If an employee is unable to get a detailed receipt or the receipt is lost, a signed statement by the employee detailing the purchased item, the business reason for the expense and certifying that the claim is accurate must be submitted and approved by the Department Head. A copy of the employee's credit card statement may also be provided to help

support the dollar amount being reimbursed.

- 2) Employees shall submit an employee expense reimbursement form with all necessary supporting documentation to the appropriate Department Head or designee for review.
- 3) The expense form will be routed through the Accounts Payable process for payment and approval. Any issues will be communicated back to the employee for correction/clarification.
- 4) The Finance department will make necessary corrections to reimbursement requests for mathematical errors, gratuities in excess of 20%, to remove any alcoholic beverages and other changes that may be necessary to comply with this policy.
- 5) Reimbursement will be made with the next City Council check register, or payroll if the meal reimbursement is taxable.

Signing an expense voucher or request for reimbursement certifies the truth and correctness of the expense incurred. Knowingly submitting a false or inaccurate expense voucher, receipt, request for reimbursement, or other record may result in discipline, up to and including termination.

SECTION 19. DRUG-FREE WORKPLACE/ALCOHOL ABUSE POLICIES

Subdivision 1. Drug-Free Workplace/Alcohol Abuse

It is the policy of the City to provide a drug-free environment. The City's goal is to establish and maintain a healthy and efficient workforce free from the effects of drug and alcohol abuse in compliance with the requirements of the federal Drug-Free Workplace Act of 1988 (as amended) and other applicable law. This requires employees abstain from using alcoholic beverages, mood-altering drugs, and drugs that adversely impact performance, prior to the start of their workday, during the work period, during lunch and other work breaks. Any violation of this policy shall result in disciplinary action, up to and including discharge.

- A. The ~~misuse~~ use of alcohol and the illegal use of drugs by an employee on duty can result in a dangerous work environment by negatively affecting job performance and the ability to function safely at work.
- B. The unlawful manufacture, distribution, transfer, possession, or use of drugs while on duty is strictly prohibited. Any such use may justify immediate discharge regardless of job performance.
- C. Intoxication, possession, illegal, or and unauthorized use of alcohol while on duty is also prohibited and may justify immediate dismissal regardless of job performance.

- D. Tolerance may be shown to an employee expressing a desire and willingness to receive treatment for their drug or alcohol use.
- E. Human Resources will provide any employee, upon request, information regarding alcohol abuse and drug dependency as well as information on available treatment programs.
- F. Confidentiality will be maintained, to the extent permitted by the Minnesota Government Data Practices Act and other applicable laws.
- G. It is the responsibility of the employee to correct his or her unsatisfactory behavior or job performance resulting from drug or alcohol use.
- H. The Human Resource Director must be notified by the employee no later than five (5) calendar days following any criminal drug statute or alcohol related conviction for a violation occurring in the workplace or any arrest or conviction of any criminal drug or alcohol offense.
- I. Violations of this policy may constitute cause for discipline, up to and including discharge. Each situation will be evaluated on a case-by-case basis depending on the severity and circumstances involved.

Commented [KS88]: What about alcohol conviction - should that be included too? We have included draft language to allow staff to review Driver's licenses annually for those that are required to drive for work in Section 5, Subd 8 (Use of vehicles)

Commented [KS89R88]: Included

The City recognizes drug and alcohol abuse as potential health, safety and security problems. Employees needing help in dealing with drug and alcohol problems are encouraged to make use of the medical resources available through their health insurance plans.

Subdivision 2. Drug & Alcohol Testing

The City has adopted ~~a~~ Drug and Alcohol Testing ~~Policy Policies~~, separate from the Employee Policy Manual, covering employees required to hold a commercial driver's license (CDL) or a non-commercial driver's license (nNon-CDL) to perform their job duties and other employees. All employees are required to sign a document that states that they have received a copy of ~~this~~ the policy. Each employee must review the document and abide by its provisions. Copies can be obtained from the City Administrator's office and the Human Resource Director's office.

Subdivision 3. Drug-Free Awareness Program

To assist employees in understanding the perils of drug and alcohol abuse, the City has established a Drug-Free Awareness Program. This drug and alcohol policy constitutes the City's drug-free awareness program and fulfills the notification requirements of the

federal Drug-Free Workplace Act of 1988 (as amended). The City will use this program as an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace. The program will inform employees of the dangers of drug and alcohol abuse, explain the City's Drug and Alcohol Policy and the sanctions imposed for its violation, and highlight any treatment, counseling, and rehabilitation referral services that may be available to employees in the City. Nothing set forth in this policy is intended to conflict with state law.

An employee convicted of a criminal drug offense committed in the course of employment will be subject to appropriate disciplinary action and/or required to complete successfully an appropriate rehabilitation program at the employee's own expense unless provided to the employee through insurance coverage. The City, in its sole discretion, shall determine what disciplinary action is appropriate.

Subdivision 4. Tobacco Use

A. PURPOSE

The City has established this policy regulating tobacco use in City-owned buildings and vehicles:

1. To comply with the Minnesota Clean Air act.
2. To respond to the increasing evidence that tobacco use creates a danger to the health of persons who use tobacco as well as persons who are present in a smoke-filled environment.
3. To promote a safe and healthy environment for staff and citizens and to set an example to the community in limiting tobacco use.

B. STATEMENT OF POLICY

1. All City-owned buildings and vehicles shall be tobacco-free which includes smoking, as defined by Minnesota Statutes, section 144.413, as amended, the use of tobacco products, ~~including chewing tobacco~~, and electronic cigarettes, as defined in Minnesota Statutes, 609.685, as amended. Park shelters are exempt ~~from this policy, from this policy~~ to the extent provided by applicable law.
2. Tobacco use is prohibited within all City-owned buildings, this includes employee workstations, employee break areas, reception areas, storage areas, hallways, meeting rooms and all other areas inside buildings not specifically mentioned herein.
3. Within City-owned vehicles, smoking and other tobacco use is prohibited by any and all occupants.
4. All individuals on City premises share in the responsibility for adhering to and enforcing this policy. The responsibility for compliance is shared by employees, Supervisors, and the general public.

Commented [KS90]: Deleting Chewing Tobacco from this section was a recommendation from Department heads.

5. Employees hosting visitors are expected to inform them of the City's tobacco free policy.
6. Information on approved smoking cessation programs is available to City staff by the Human Resource Director.
7. Complaints of violation of the policy should be directed to the Department Head responsible for the particular work area or facility involved in the complaint. The Department Head shall be responsible for notifying the violator of the pertinent portions of this policy. Failure to comply with the policy after proper notification shall initiate the City's discipline procedures may result in discipline, up to and including immediate termination, if the violation is committed by an employee, or may result in the individual being asked to leave the City's premises, if the violation is committed by a member of the public.

SECTION 20. EMPLOYEE SAFETY MANUAL

The City has adopted an Employee Safety Manual, separate from the Employee Policy Manual. All employees are required to sign a document that states that they have received a copy of the manual. Each employee must review the manual and abide by its provisions. Copies can be obtained from the City Administrator's office or the Human Resource Director's office.

SECTION 21. POLITICAL ACTIVITY

City employees have the right to vote as they please, to express their personal opinions on political subjects in their capacity as ~~individuals, and~~ individuals and retain membership in political parties.

An employee may be a candidate for partisan or non-partisan public office provided that no employee shall campaign for such office during actual hours of work. City employees' political activity may be subject to state and federal laws including, but not limited to, the federal Hatch Act, the Minnesota Fair Campaign Practices Act, and Minnesota Rules part 9575.0080, and all amendments thereto.

No employee will be permitted to express any view on any legislative protocol, candidate for office, elected official, or other topic on behalf of the City unless expressly approved to do so by the City Council or designee. Any and all lobbying activities undertaken, or purportedly undertaken, on behalf of the City must be approved in advance by the City Administrator and comply with the City's expectation and direction for such activities.

The City prohibits employees from participating in political activities on City time, [using City resources](#), or while performing City functions, except as required by law. Employees must not identify themselves as a City employee by either appearance or declaration while expressing personal political opinions.

SECTION 22. **HARASSMENT**

It is the policy of the City that harassment and inappropriate conduct of employees is prohibited. The City seeks to promote a professional work environment where employees can perform their jobs free from abuse by others. This policy applies to all of the City's employees while performing their duties as employees within or outside the workplace. For purposes of this policy, employees include all individuals who are hired, elected, appointed, or contracted to provide services to the City.

Harassment is unwarranted and unwanted verbal or nonverbal conduct which threatens, intimidates, or insults another person, where such conduct has the purpose or effect of creating an offensive, intimidating, or degrading environment, or interferes with or adversely affects a person's work performance based on [race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law](#)~~race, national origin, sex, religion, disability, age, marital status, public assistance status and sexual orientation.~~

Harassment does not include the conduct or actions of Supervisors intended to provide employee discipline, such as deficiency notices, performance evaluations, oral warnings, reprimands or other supervisory actions intended to promote productive performance.

A. STATEMENT OF POLICY

It is the policy of the City that harassment will not be tolerated. All employees are prohibited from engaging in the harassment of any other employee or other person in the course of or in connection with employment. The desired standard of employee behavior is one of cooperation and respect for each other, despite any differences. Employees have a right to a workplace free of verbal and/or physical harassment.

B. SEXUAL HARASSMENT

1. Definition

For purpose of this policy, sexual Harassment is defined as physical or verbal conduct relating to an individual's gender or directed at an individual because of gender, unwelcome sexual advances, request for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual or gender-related nature when:

Commented [KS91]: It was asked if we should move this to Employee Conduct Section?

Commented [CRS92R91]: As stated in my earlier comment, it should be a separate section. It could be moved up, however.

Commented [KS93R91]: After discussing this, we decided to include a notation in Section 5 that cross references this section.

- a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or continuing employment or a basis for employment decisions affect that individual; or
- b. submission to or rejection of that conduct or communication by an individual is used as a factor in any employment decisions affecting the individual or decision related to the individual's access to public services or public accommodations affecting said individual; or
- c. that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public service, or public accommodation, or of creating an intimidating, hostile or offensive employment environment.

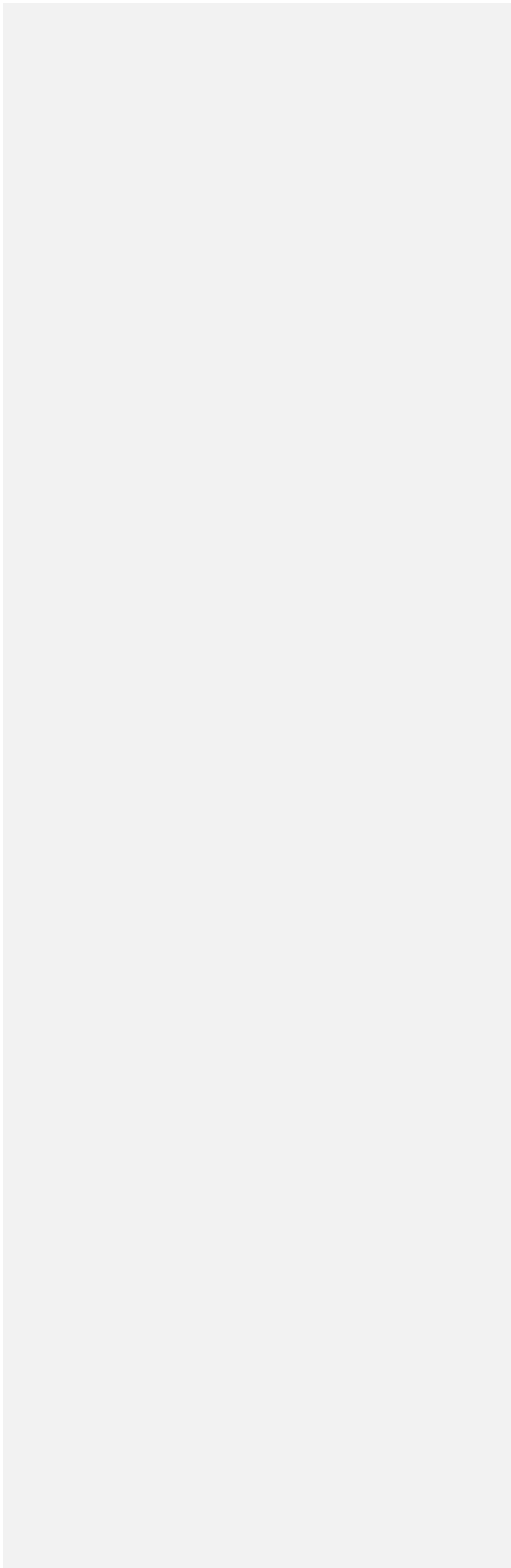
A single act or communication may constitute sexual harassment.

2. Examples of Conduct that can Constitute Unlawful Sexual Harassment

Examples of sexual harassment include, but are not limited to, the following:

- a. Unwelcome subtle or overt pressure for sexual activity.
- b. Repeated, unwelcome suggestions regarding, or invitations to, social engagements or work-related social events.
- c. Verbal abuse or innuendo of a sexual nature.
- d. Unwelcome physical contact such as touching, hugging, patting, pinching, pawing, poking, or slapping.
- e. Any unwelcome sexual or sexually motivated touching.
- f. Comments of a sexual nature about an individual's body or sexual terms used to describe an individual.
- g. Display or distribution of sexually suggestive or sexually explicit objects or pictures, including cartoons, articles, pictures, and other graphics which have a sexual conduct and which are not necessary for work.
- h. Jokes or remarks of a sexual nature to, or in the presence of, people who may find them offensive.
- i. Prolonged staring or leering at a person.
- j. Use of suggestive facial expressions, gestures of a sexual nature, or sexually suggestive or insulting sounds.
- k. Any demand for sexual favors accompanied by an implied or overt threat concerning an individual's employment status or promises of preferential treatment or other indication, express or implied, that an employee's job security, assignment, opportunities for advancement, or other terms or conditions of employment may depend on the granting of sexual favors to any other employee, supervisor, elected official, or manager.
- l. Any action relating to an employee's job status, which is taken as a direct result of the granting or refusal of social or sexual favors.
- m. The deliberate or careless creation of an atmosphere of sexual harassment or intimidation.
- n. Indecent exposure.
- ~~n-o.~~ Other physical or verbal conduct directed at ~~any~~heranother because of

| [sex or gender.](#)



Normal, courteous, mutually respectful, pleasant, non-coercive interactions between people that are acceptable to both parties are not considered to be sexual harassment.

C. OTHER PROTECTED CLASS HARASSMENT

Other protected class harassment is offensive conduct or communication based on an individual's race, color, creed, religion, national origin, sexual orientation, disability, age, marital status, familial status, status with regard to public assistance, or any other characteristic protected by state or federal law when:

1. Submission to such unwelcome conduct or communication is made either explicitly or implicitly as a term or condition of obtaining or retaining employment or access to public services or accommodations;
2. Submission or rejection of such unwelcome conduct or communication by an individual is used as a factor for any employment decision or decision related to the individual's access to public services or public accommodations affecting said individual; or
3. Such unwelcome conduct or communication has the purpose or effect of substantially interfering with any person's employment, public services or public accommodation, or creating an intimidating, hostile, or offensive work environment.

D. Department Head/Supervisory Responsibilities

Department Heads and Supervisors are responsible for maintaining a work environment free of sexual harassment and other protected class harassment. It is their responsibility to ensure that all employees comply with the City's Policy. Department Heads and Supervisors must respond promptly and appropriately to both allegations and confirmed reports of harassment.

In the absence of a complaint, Supervisors and Department Heads observing conduct that may constitute prohibited harassment in the workplace are responsible for calling such behavior and this policy to the attention of the participants at the time of the observance. A written summary of the discussion shall immediately be forwarded to the City Administrator.

Supervisors and Department Heads receiving complaints or reports of alleged inappropriate conduct shall immediately forward a report to the City Administrator prior to taking any action on the complaint. The City Administrator or designee will make the determination as to whether, and to what extent, an investigation is warranted, who will investigate, and what methods will be used in the investigation.

Failure of a supervisory employee to immediately forward reports of observances or complaints to the City Administrator shall be grounds for disciplinary action, up to and including termination of employment.

E. Employee Responsibilities

All City employees are expected to treat all other employees and the public with respect and to comply with this policy. Any employee found to have violated this policy will be subject to appropriate disciplinary action, up to and including discharge from employment.

F. Complaint Procedure

Any employee who believes he or she is being subjected to sexual harassment or other protected class harassment in any form, or any employee with knowledge or belief of conduct on the part of another employee or other individual which may constitute a violation of this policy, is required to report the alleged conduct immediately to a Supervisor, the Department Head, or the City Administrator. While the City encourages written reports of the alleged conduct, verbal reports will be accepted. The individual receiving the report should be prepared to supply the following information:

1. Date, time and location of incident
2. Identification of the offender(s)
3. A detailed description of the incident
4. Any materials in the complaining employee's possession related to the incident (e.g. cartoons, articles, pictures)
5. Identification of any potential witnesses to the incident

Additionally, at the time of the incident, if you are the employee being subjected to the inappropriate behavior and feel comfortable in so doing, you may, but are not required to, courteously, but firmly, tell the individual(s) engaging in the inappropriate behavior to stop the behavior because the behavior makes you feel intimidated, offended or uncomfortable. Include a summary of this discussion in your report to the Supervisor or City Administrator.

Any Department Head or other supervisory employee who receives a formal or informal, oral or written report of harassment shall inform the City Administrator immediately without screening or investigating the report, unless the City Administrator is involved or has a conflict of interest, in which case the report shall be made to the Mayor pursuant to the reporting procedures. Failure of any supervisory employee of the City to forward such a report to the appropriate party shall be grounds for discipline.

By the authority of the City Council, the City Administrator, upon receipt of a report or complaint of sexual harassment or other protected class harassment, shall undertake or authorize an investigation. The investigation may be conducted by City Officials or by a third party designated by the City.

The City may take immediate steps, at its discretion, to protect the complainant and other employees or members of the public pending completion of the investigation.

The investigation methodology will be determined by the investigator depending on the specifics of each complaint. Investigations typically include, at a minimum, interviews with the reporting employee, the complaining employee (if different from the reporting employee) and alleged offender(s). The investigation methodology may additionally include additional interviews, document review and other methods deemed pertinent by the investigator.

G. Confidentiality

Records maintained pursuant to this policy are subject to the Minnesota Government Data Practices Act, the Minnesota Records Retention Act, and other applicable laws. Subject to those laws, every effort shall be made to respect the privacy of the parties to a complaint, without compromising the thoroughness of the investigation.

H. No Reprisal for Filing Complaint of Harassment

The City will not tolerate acts of retaliation against employees who have made a good faith report of suspected violations of this policy or any person who assists in the investigation of such a complaint regardless of the outcome of such investigation. The City will discipline or take other appropriate action against any employee who engages in acts of retaliation toward these individuals. For purposes of this policy, retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

I. Disciplinary Procedure

4.2. An employee who violates this policy will be subject to disciplinary action up to and including discharge.

2.3. Any employee who prevents or attempts to prevent an individual from reporting a suspected violation of this policy or who interferes in any way with the investigation of such a report will be subject to disciplinary action, up to and including discharge.

~~3.4.~~ Any employee who retaliates or discriminates against an individual who reports a suspected violation of this policy or assists in the investigation of such a report will be subject to disciplinary action, up to and including discharge.

~~4.5.~~ Supervisor, managers, or Department Heads who become aware of violations of this policy in their department, even in the absence of a formal complaint, shall take appropriate disciplinary action, in consultation with the City Administrator.

~~5.6.~~ Any non-employee found to have violated this policy may be removed from the City property or other appropriate action may be taken.

The Data Practices Act may allow individuals who are not directly involved with the complaint to access records related to the complaint in certain circumstances.

~~J. For purposes of BPU employees, the applicable BPU Department Head will perform the duties of the City Administrator.~~

SECTION 23. GRIEVANCES

It is the policy of the City insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur. For purposes of this policy, a grievance is defined as a dispute or disagreement as to the interpretation or application of the City's personnel policies.

Employees shall have the right to present grievances either individually or as a group. Grievances shall be presented to the City Administrator ~~or applicable BPU Department Head~~, in writing, within five (5) calendar days of the occurrence of the alleged grievance.

The City Administrator ~~or applicable BPU Department Head~~ shall respond to an employee's grievance within fourteen (14) calendar days after receiving the alleged grievance. The decision of the City Administrator ~~or applicable BPU Department Head~~ is final, except that when the City Administrator ~~or applicable BPU Department Head~~ is directly involved in the grievance, appeal may be made to the Personnel and Finance Committee ~~for (City-side employees) or BPU Commission (for BPU employees)~~ for final decision within fourteen (14) calendar days of the City Administrator's decision ~~or that of the applicable BPU Department Head~~. In such an appeal, the Personnel and Finance Committee's decision, ~~or that of the BPU Commission~~, is final. In the event that the City Administrator ~~or applicable BPU Department Head~~ does not respond to the grievance within fourteen (14) calendar days of receipt, the grievance shall be considered denied for purposes of the appeal time period discussed above.

In compliance with federal or state law, an employee may also grieve any alleged unsafe act or practice, adverse working conditions, violation of civil rights, and alleged hazardous materials management.

Concerns that employees have cannot go directly to individual members of the City Council. The City Council acts as a body and not as individuals and going directly to the City Council with problems is inappropriate. Likewise, for individual Council members to be giving direction to staff without the knowledge of the City Administrator is inappropriate. Again, the City Council gives its direction, as a policy making body, to the staff through the Administrator.

SECTION 24. DISCIPLINE AND DISCHARGE

Subdivision 1. ~~Just Cause~~At-Will Employment

City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities, including failure to observe proper workplace conduct adopted by the City Council. It is the policy of the City to administer disciplinary penalties without discrimination. Except for probationary employees and as expressly described in this Policy, employees may use the grievance procedure as per the personnel policy with respect to any disciplinary action. To the extent feasible, the supervisor or department head shall gather relevant information before reporting the incident to the Human Resource Director. At the direction of the Human Resource Director, the supervisor or department head may gather additional relevant information and investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

Nothing in this Policy shall be interpreted as altering the City employees' status as "at-will" employees or creating any type of "just cause" standard for discipline or termination. When determining whether to impose discipline, including termination, the City may consider all relevant factors, including, but not limited to, the seriousness and frequency of misconduct, and the employee's discipline history.

Cause Grounds for discipline and discharge will include, but is not limited to the following:

- A. Incompetence, ineffectiveness, or inefficiency in the performance of duties;
- B. Criminal conduct which would constitute a felony, gross misdemeanor, or misdemeanor except as limited by Minnesota Statutes, Chapter 364;
- C. Violation of any City policy, procedures, work rule, regulation or City ordinance, including the provisions of this manual and any safety and/or health policies and procedures;

- D. Being under the influence of alcohol, drugs, or controlled substances while performing duties for the City, while on City premises, or while acting as a representative of the City off premises;
- E. Discourteous, hostile, insulting, abusive, or inflammatory conduct toward the public, a fellow employee or fellow employees, a supervisor or supervisors, a member of the City Council or members of the City Council, or a member of any City commission, or members of any City commission;
- F. Theft, misuse, carelessness and/or negligence in the handling or control of City property or property entrusted to the employee by the City, including allowing unauthorized persons to ride in City vehicles, or the unauthorized appropriation of City property for the employee's own use;
- G. Inducing or attempting to induce a person, officer or employee of the City to commit an unlawful act or to act in violation of any City policy, procedure, regulation, ordinance, or workplace directive or order;
- H. Dishonesty in the performance of duties;
- I. Sleeping during work hours;
- J. Willful misconduct or insubordination;
- K. Acceptance of a gift under circumstances from which it could be inferred that the giver expected or hoped for preferred or favorable treatment in conduct of City business;
- L. Unapproved use of paid work time and/or equipment in outside employment or for personal benefit;
- M. Falsely stating or falsely making claims of injury or illness;
- N. Gambling while on duty, on City property, or using City equipment or resources;
- O. Inability to perform the essential functions of the employee's job, whether due to physical or mental impairment, or otherwise;
- P. Any possession, sale, distribution, possession, or unauthorized use of alcohol or controlled substances, during working hours and/or while representing the City;

- Q. Unexcused absence from work;
- R. Tardiness in reporting to work;
- S. Improper reproductions or misuse of copyrighted ~~computer software or other copyrighted~~ materials;
- T. Theft of City property or personal belongings of others;
- U. Abuse of official position with the City to achieve personal, political, or financial gain;
- V. False or inaccurate claims for reimbursement of expenses;
- W. Disorderly, abusive, or indecent conduct that causes disruption of the work environment, including fighting;
- X. Unauthorized possession of weapons on City property;
- Y. Allowing unauthorized visitors into unauthorized City offices and locations;
- Z. Unauthorized disclosure of private, confidential, or nonpublic data;
- AA. Failure or refusal to comply with City or department regulations, policies, or procedures; and
- BB. Any other conduct which, in the discretion of the City, constitutes a breach of the standards of behavior which it should reasonably expect of its employees.

Employment at the City may be terminated at the will of either the employee or the City, at any time, and for any legal reason or no reason.

Subdivision 2. Procedures

- A. Discipline may be in one or more of the following forms, although ~~the~~ **The City of Brainerd reserves the right to take any disciplinary action at any time:**
 - 1. oral reprimand;
 - 2. written reprimand;
 - 3. suspension;
 - 4. demotion; or
 - 5. discharge.

- B. Suspension, demotion and discharge will be in written form and will state the reasons for such action.
- C. Reprimands, notice of suspension, and notice of discharge are to become part of an employee's personnel file. The employee will receive a copy of any reprimands and/or notices.
- D. Employees receiving a written reprimand, suspension, demotion, or discharge shall be given a copy of the discipline document and sign the original, acknowledging that he or she has received the written reprimand, suspension, demotion, or discharge. The signature of the employee does not necessarily indicate that he or she agrees with the disciplinary action. If the employee refuses to sign the original written reprimand, suspension, demotion, or discharge, such refusal will be noted on the discipline document. All written discipline will be placed in the employee's personnel file.
- E. Consistent with applicable law, employees may examine their own individual personnel files at reasonable times under the direct supervision of the City Administrator, ~~BPU Department Head (for BPU employees)~~, or designee.

Subdivision 3. Supervisory Authority

- A. Oral and Written Reprimands. Department Heads have the authority to impose oral and written reprimands without prior approval of the City Administrator. The ~~D~~epartment ~~H~~ead must maintain a record of each verbal reprimand. A verbal reprimand may not be appealed or submitted through the grievance process.
- B. Suspension. The City Administrator ~~or applicable BPU Department Head (for BPU employees only)~~ may suspend an employee.
- C. Demotion and Discharge. An employee may be demoted or discharged by recommendation of the City Administrator ~~or applicable BPU Department Head (for BPU employees only)~~ and final determination by the City Council ~~or BPU Commission (for BPU employees only)~~.

Subdivision 4. Right of Appeal

An employee may appeal an oral or written reprimand verbally or in writing to the City Administrator ~~or BPU Commission (for BPU employees only)~~ within five (5) work days after disciplinary action has been imposed. The City Administrator ~~or BPU Commission (for BPU employees only)~~ will make the final determination and will inform the employee in writing regarding the decision made.

An employee may appeal a suspension without pay, or recommendation for demotion or discharge to the City Council ~~or BPU Commission (for BPU employees only)~~ by requesting, in writing, that a hearing be conducted for that purpose. Such request must be made by the employee to the City Administrator ~~or BPU Commission (for BPU employees only)~~ within five (5) days after disciplinary action has been imposed. At its sole discretion, the City Council ~~or BPU Commission~~ may hold the hearing at its next regularly scheduled meeting or any date within thirty (30) days of such meeting. The City Council ~~or BPU Commission~~ has the sole discretion to conduct the hearing or to appoint a subcommittee to conduct the hearing. If the City Council ~~or BPU Commission~~ appoints a subcommittee, the subcommittee shall make its recommendation to the City Council ~~or BPU Commission~~ at the next regularly scheduled meeting of the City Council ~~or BPU Commission~~ following the hearing. The decision of the City Council ~~or BPU Commission~~ will be final.

If the appeal is upheld by the City Council ~~or BPU Commission~~, the employee shall receive all payments, benefits and service accrual which the employee would have earned during the period of suspension without pay, demotion or discharge and be reinstated to the position.

For purposes of the Minnesota Government Data Practices Act, the initial disciplinary decision constitutes the final disposition of a disciplinary matter, unless the employee files a timely appeal with the City Council ~~or BPU Commission~~. In such cases, the City Council's decision ~~or BPU Commission's decision~~ constitutes the final disposition.

SECTION 25. PERSONNEL/PAYROLL

Subdivision 1. Personnel Records

An employee must notify the Department Head and the Human Resource Director in case of a change in address, telephone number, marital status, or number of dependents. If at any time an employee's address or telephone number is changed and the change is not reported, it may be difficult or impossible to complete delivery of messages, notices, or other information which should be received. Incomplete information creates problems with payroll deductions and fringe benefits, such as medical coverage. Accordingly, the failure to provide such information may impact the City's ability to provide pay and/or benefits to City employees.

Subdivision 2. PERA (NOTE: Check PERA's [Website](#) **Error! Hyperlink reference not valid.** to verify contribution rates)

Almost all city employees in the State of Minnesota are covered by a public pension system known as the PERA. Both the City and employees contribute to PERA. For

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specific information regarding annual contribution rates, contact the Human Resource Director. Vesting time varies depending on your membership eligibility date and the pension is portable among public employers throughout the state. Being vested means you qualify for benefits at the minimum allowable age.

In normal situations, employees and employers both contribute a percentage of the employee's gross salary to PERA. However, Minnesota law provides that some income received by an employee are not eligible for PERA contributions. Employees should contact the Human Resource Director with specific questions regarding PERA contributions.

Subdivision 3. FICA

All full-time, part-time, temporary and/or seasonal employees are mandatory members of Federal Insurance Contribution Act (commonly known as Social Security). The City is required to deduct certain amounts from such employees' gross salary. Certain employees may be exempt from this deduction. Employee should contact the Human Resource Director with specific questions regarding FICA deductions.

Subdivision 4. Medicare

All full-time, part-time, temporary and/or seasonal employees have a mandatory deduction for Medicare tax taken from their paychecks. Employee should contact the Human Resource Director with specific questions regarding Medicare deductions.

Subdivision 5. MN Deferred Compensation

The City is a member of the Minnesota Deferred Compensation Plan. An employee may, at their option, defer any part of income, to a maximum amount set by law, of gross salary. The City does not contribute any monetary amount to the MN Deferred Compensation Plan unless required by Union-Contract provisions~~the provision of collective bargaining agreement~~, ~~except as identified in Exhibit C.~~

SECTION 26. SEPARATION FROM EMPLOYMENT

Subdivision 1. General Statement

Separation from employment is an inevitable part of personnel activity within any organization, and there are many reasons for separation. The reasons for separation include: (1) resignation; (2) discharge (in accordance with Section 24 of these policies); (3) layoff; and (4) retirement (in accordance with Section 27 of these policies).

An employee leaving the City, for any reason, must turn in his/her identification badge

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and card, tools, shop coats, keys, books, and other City equipment no later than the last day of work. The employee is expected to go through an exit interview with the Human Resource Director on his/her last day of work. This interview is important for both the City and the employee. Through this interview, information may be provided which can lead to the causes of turnover, absenteeism, poor communication, etc. Oftentimes problems are discovered which appeared non-existent previously. It can be an effective means for gaining insight into potential personnel problems.

Subdivision 2. Resignation

As at-will employees, all City employees may resign at any time, for any reason. In order to be considered "in good standing" at the time of resignation, an employee must file with employee's department head, at least 14 days before leaving, a written resignation stating the effective date of the resignation. Department Heads and non-union supervisors wishing to resign "in good standing" should give the City as much advance notice as possible, but must provide at least 30 days' notice. Failure to comply with this 14 day or 30-day notice procedure may be considered cause for denying the employee future employment by the City and denying termination benefits. Unauthorized absence from work for a period of three working days may be considered by the City Administrator ~~(or applicable BPU Department Head, for BPU employees only)~~ as a resignation "not in good standing" and without benefits.

Subdivision 3. Layoffs

After at least two weeks' notice to the employee, the City Administrator ~~or applicable BPU Department Head (for BPU employees only)~~ may lay off any employee when such action is necessary because of shortage of work or funds, the abolition of a position, or changes in organization. If it should become necessary to reduce the City work force, the City may give consideration to the employees' on-the-job performance, abilities, job knowledge and the potential for other jobs within the City.

Subdivision 4. Final Pay Following Termination of Employment

Subject to applicable law, employees who terminate employment with the City shall receive their final pay settlement a maximum of two weeks from the date of resignation, coinciding with the next normal payday.

SECTION 27. RETIREMENT AND SEVERANCE PAY

Subdivision 1. Procedure

Regular employees who retire voluntarily in good standing, as defined in Section 26,

after giving at least two (2) weeks notice to the City and are eligible to immediately begin receiving monthly retirement benefits under the provisions of PERA as of the date of his or her retirement shall be granted severance pay based on the following conditions and rates:

Subdivision 2. Conditions

- A. Retirement - voluntary and in good standing, as defined in Section 26
- B. Voluntary retirement or termination of employment in good standing, as defined in Section 26, due to health reasons, service-connected injury, or illness.

Commented [KS98]: Verify Section # when finalized.

Commented [KS99]: Verify Section # when finalized

Subdivision 3. Rates

All regular employees, regardless of the date of hire, shall be entitled to 100 percent of their unused sick leave as severance pay, with a maximum of nine hundred sixty (960) hours, upon retirement in good standing, as defined above in Section 26, or if they become disabled and must terminate their employment, with written proof by a physician. In the event of death, severance pay shall be paid to the beneficiary. Pay for unused sick leave shall be based on existing annual wage as described in Exhibit C or applicable union contract.

Commented [KS100]: Verify Section # when finalized.

SECTION 28. ACCIDENT PROCEDURES

As a City employee, it is important that you are aware of certain procedures to be followed if you are injured on the job or involved in an accident while operating City equipment. These procedures have been established to protect your interests as an employee, as well as protect the City.

Employees shall comply with all federal and state laws and rules concerning vehicles and their safe operation. Safety devices, such as seat belts, lights, horns, etc., shall be utilized.

Compliance with speed limits, safe driving procedures, and proper licensing requirements will be enforced by the City.

Employees are responsible for performing routine checks (i.e., tire pressure, oil, turn signals, lights) before operating a City-owned vehicle.

If you are involved in an accident while operating any City-owned vehicle or piece of

equipment, or while engaged in City business with any hired or privately-owned vehicle:

- A. Notify the police and/or emergency medical services, as appropriate, by dialing 911, and your supervisor IMMEDIATELY.
- B. Request that all parties and property concerned remain at the scene of the accident, if possible, until a law enforcement representative has released them.
- C. Obtain identifying data from the driver of the other vehicle (i.e. name, address and insurance company).
- D. Secure names and addresses of injured persons and any witnesses to the accident.
- E. Employee responsibility is to refrain from making statements regarding the accident with anyone other than the investigating law enforcement representative, appropriate City officials, and representatives of his or her own insurance company, if the employee's privately-owned vehicle is involved. Statements made to investigating authorities should be confined to factual observations. A copy of all police reports and any statements attached thereto will be forwarded to City Administration or designee within one day of receipt by the employee(s) involved in the accident.
- F. Employees shall refrain from admitting fault or liability and must gather all applicable loss data, witnesses, injured parties, passenger names, vehicle and driver's license numbers.

Employees who sustain personal injury or illness in any work-related accident are REQUIRED to report the injury to their supervisor immediately (no matter how minor). Once your supervisor has been notified of an accident, he/she will inform you of the steps to be taken to properly report and record the occurrence. Your supervisor may also direct you to proper medical attention where necessary. If it is necessary for you to complete an "Employee Incident" form, it should immediately be completed and returned to your supervisor. If it is necessary for you to miss work because of a work-related accident, it is your responsibility to keep your supervisor informed of the date you are able to return to work. In most instances, your treating physician will provide you with that information during your initial visit.

Please remember that following these simple procedures not only ensures accurate record keeping of accidents and personal injuries as required by law, but also protects your interests as an employee. For your own protection, be sure to report any accidents and injuries you may have, no matter how small.

Employees using a City-owned vehicle may be held liable for accidents in which he or she is involved. Employees will be personally responsible for paying any citation or other criminal sanction received while operating a City-owned vehicle.

SECTION 29. SALARY ADMINISTRATION PLAN

Non-union supervisory employees and Department Heads shall be compensated in accordance with wage resolutions adopted by the City Council.

New employees will generally start at Step 1. Promoted ~~and/or reclassified~~ employees will generally start at the lowest step ~~that is at least 3% more than the employee received in his or her previous position with the City.~~ further, wage step placement appeals will not be considered from promoted and/or reclassified employees for a higher step placement. The City retains the sole discretion to start an employee at a higher step depending on qualifications and needs of the City. Employees shall have no right under this policy to file a grievance or appeal to the City Council regarding their initial placement on the pay table or initial placement following a promotion or reclassification.

Performance evaluations shall be based on job descriptions and result-oriented performance standards. Performance evaluations are intended to assist the employee in reaching maximum potential, enhance services provided by the City, and provide for periodic, formal review by the employee's supervisor and Department Head. The performance evaluation system shall be conducted in the following way:

A.D. It shall be the responsibility of each ~~City and BPU~~ Department Head to provide periodic written evaluations of subordinate employees, on at least an annual basis. This once a year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

B.E. It shall be the responsibility of the City Administrator to provide periodic written evaluations of ~~City~~ Department Heads on at least an annual basis. This ~~once-a-year~~ year-once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

C.F. It shall be the responsibility of the City Council to provide periodic written evaluations of the City Administrator, on at least an annual basis. This ~~once-a-year~~ year-once-a-year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.

Commented [KS101]: Moved this section to be closer to promotions/payroll areas.

Commented [CRS102]: This clause is potentially confusing. Is it the intention that the appeal procedure cannot be used to challenge placement for a newly promoted employee or that an employee who has been promoted cannot use the appeal procedure again after being promoted?

Commented [KS103R102]: We added the last sentence for clarity.

~~D. It shall be the responsibility of the BPU Commission to provide periodic written evaluations of the BPU Department Heads, on at least an annual basis. This once a year annual evaluation shall coincide with the determination of the appropriateness of granting a merit (step) increase in accordance with this policy, if the employee is eligible.~~

The decision to provide a merit (step) increase shall be the determination, at the discretion of the Department Head, City Administrator, or City Council, ~~or BPU Commission~~, as applicable. Pay steps through step 6 are based on satisfactory performance.

In order to advance to Step 7 on an applicable wage grid approved by the City Council, an employee must be on Step 6 and obtain two "achieves expectations" and one "exceeds expectations" on their annual performance evaluation for their currently-held position in any given three-year cycle beginning January 1, 2019. In order to advance to Step 8, an employee must be on Step 7 and obtain another "exceeds expectations" with two prior "achieves expectations" on their annual performance evaluation for their currently-held position in any given three-year cycle.

~~Except for employees hired or promoted on or after September 30 of any year, any Step increases~~ for employees hired before -August 1, 2022 will become effective on January 1 of each year following the employee's performance review. For employees hired, reclassified or promoted on or after August 1, 2022, September 30, any step increase will become effective on their position anniversary date June 1 of the following calendar year. Progression through the pay steps will be accomplished by an annual review of employee performance, as described above.

~~Employees shall have no right under this policy to file a grievance or appeal to the City Council regarding their initial placement on the pay table or initial placement following a promotion or reclassification.~~ Denial or delay of a step increment shall be subject to the grievance procedures described in these policies.

SECTION 30. STATEMENT OF POLICIES AND PROCEDURES FOR PAYMENT AND/OR REIMBURSEMENT OF COSTS AND ATTORNEY'S FEES FOR MUNICIPAL OFFICERS AND EMPLOYEES

The City may reimburse its employees or officers for costs and reasonable attorney's fees incurred by an employee or officer, to the extent permitted by Minnesota Statutes, section 465.76.

SECTION 31. TECHNOLOGY USE

General Information

This policy serves to protect the security and integrity of the City of Brainerd's ~~and Brainerd Public Utilities~~ ("City") electronic communication and information systems by educating employees about appropriate and safe use of available technology resources. All employees are responsible for reading and following information that may be distributed from time-to-time about appropriate precautions to protect City systems.

Commented [KS104]: Does this change trigger different performance review cycles for these employees?

Commented [CRS105R104]: It potentially does, depending on when a Department Head typically completes evaluations. The evaluations need to be complete for a step increase to take effect.

Commented [KS106R104]: In discussing this with Christian, we agreed that first review follows the probationary period; however, subsequent reviews should follow the timeframe established for all employees realizing that a review could happen in late falloff one year, however, the step advancement may not happen until a later time the following year i.e. position anniversary date (up to August 31 as that is our typical last date for the annual review timeframe).

Commented [KS107]: This was moved to initial placement paragraph.

City-owned computers, cellular telephones, mass storage devices, and related equipment used by City employees are property of the City. Except when accessed by the police department for law enforcement purposes, the City specifically reserves the right to audit, monitor, and inspect, without notice, without the user's consent, and for any reason or no reason, employees' use of its computers and related equipment and all data, emails, files, settings, or any other aspect of a City-owned computer or related system, including personal information created or maintained by an employee. An audit may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation.

All City owned equipment, including, but not limited to, ~~offices, cubicles, computers, laptops, telephones, mobile devices, field electronics, mass storage devices, desks, files, vehicles, filing cabinets, e-mails,~~ voice mail, text messages on City paid cellular telephones, ~~computers, laptops, mass storage devices, e-mails, electronic media or devices of any kind,~~ or any other type of equipment, ~~property, or space provided by the City, including e-mail accounts provided by the City,~~ are City property. Except when accessed by the police department for law enforcement purposes, any such property or equipment may be accessed by the City at any time, for any purpose, with or without notice to the employee, and with or without reasonable suspicion. City employees and other users shall have no expectation of privacy in any property or equipment of the City.

In addition, the City is subject to the Minnesota Government Data Practices Act ("MGDPA") and other laws governing the collection, storage, use, and disclosure of data. All files and documents, including personal messages and internet logs, created, received, collected, maintained, or generated by City employees or using the City's computer and/or related equipment are subject to those laws. In accordance with applicable law, such files and documents may be disclosed in certain circumstances without the permission of the employee or user.

Users should notify IT staff upon learning of violations of this policy. ~~As discussed above,~~ ~~violation~~ of this policy may result in the removal of hardware and/or software not compliant with this policy, revocation of permission to use the City's computers and/or related equipment, employee discipline, up to and including immediate termination, and/or criminal charges, depending on the nature of the violation. All violations will be addressed consistent with the City's Personnel Policies or applicable union contract.

Data Privacy and Retention

All data stored on computers, related equipment, and media owned, leased or rented by the City is considered to be owned by the City and is subject to the MGDPA, which governs its

use and dissemination. ~~As discussed above, all~~ All City owned equipment and Information Technology Systems, including e-mail, are City property and subject to inspection by the City at any time, without notice, and for any reason or no reason at all. The City Administrator or Human Resource Director should be contacted with questions regarding the classification of public and private data.

Data Ownership: All information developed or introduced to a City computer or related equipment by a user in conjunction with employment with the City is the property of the City.

Data Storage: All City data must be saved to a network drive on a City server or City provided resource.

Data Deletion: Users are responsible for deleting outdated files that are no longer needed for compliance with ~~of~~ the City Records Retention Schedule; this includes data files and email messages that do not need to be retained in accordance with the City's Records Retention Schedule. The City Administrator should be contacted with questions regarding the City Records Retention Schedule.

Data Back-up: The IT department backs up ~~all~~ most data stored on network servers or cloud storage. Workstation hard drives or any other devices are not backed up and are subject to failure and may result in permanent data loss.

Personal Use

The City offers employees the privilege of limited personal use of City-owned computers and related equipment. Personal use is allowed under the following guidelines and only during break times or before/after normal ~~business~~ paid working hours:

- Only City employees may use City-owned equipment. Family members or friends of City employees are not allowed to use City equipment or technology resources.
- Employees shall not connect personal peripheral tools or equipment (such as cell phones, USB drives, flash drives/cards, disks, digital cameras, or printers) to City-owned systems, without prior approval from ~~the~~ IT staff. If permission to connect these tools/peripherals is granted, the employee must follow provided directions for protecting the City's computer network.
- Personal files should not be stored on City computer equipment. This also applies to personal media files, including but not limited to personal documents, images, audio and video files, such as mp3 files, wav files, movie

~~files, iTunes files, or any other file created by copying a music CD, DVD, or files downloaded from the Internet.~~ IT staff may delete these types of files if found on City-owned equipment. Exceptions would be recordings for which the City has created, owns, purchased, or has a license.

- City equipment or technology, including City-issued email accounts, shall not be used for: illegal activities, personal business interests, for-profit ventures, political activities, outside employment, ~~any other~~ public office or employment which is incompatible with City employment ~~responsibilities as determined by the City Administrator~~, wagering, betting, or selling chances, annoying or harassing other individuals, fund-raising except for City-approved activities, religious activities, pornographic, obscene, or indecent images or content, forwarding junk email, advertisements, or chain emails, or other uses deemed by City management to be inconsistent with City activities. If any employee has a question as to whether a use is appropriate, that employee must contact the City Administrator or applicable ~~BPU~~ Department Head ~~(for BPU employees only)~~ for permission before engaging in the conduct in question.
- The City reserves the right to ~~use management software to~~ monitor end user activity. ~~This s~~Software ~~and/or hardware~~ may be used to monitor, filter, block, or limit internet activity. ~~As discussed above,~~ ~~The City may inspect any data or information stored on its equipment or network, even if the information is personal to the employee.~~

Hardware

In general, the City will provide the hardware required for an employee to perform ~~his or her~~ their job duties. Requests for new or different equipment should be made to the Department Head, who may consult with IT staff.

Unapproved hardware, including ~~cameras, mobile devices, printers, memory sticks, flash drives, and other~~ external storage devices, and any other peripherals that ~~has have~~ not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited. IT staff may, without notice, remove any unauthorized equipment, ~~other hardware~~ attached to the City's computer system or network.

The City will not supply ~~laptop mobile devices~~ devices, including computers, based solely on the desire of employees to work offsite. A business need will be required for each ~~laptop mobile device~~ deployment and must be approved by the Department Head, ~~at his or her sole discretion~~. In general, ~~laptops mobile devices~~ will only be issued to employees who: regularly use their ~~laptop device~~ offsite; require a ~~laptop device~~ for access to special software or systems; have a documented business need for a ~~laptop device~~; and/or require the use of a full computer device while traveling.

Employees are responsible for the proper use and care of City-owned computer equipment.

City employees are expected to provide reasonable security to all City-owned computers and related equipment. This includes ensuring that passwords comply with this policy. Removable media must be kept in a secured area. Non-public, private, and/or confidential data must not be displayed in such a manner that unauthorized personnel or others can view or access it. All City-owned computers and related equipment must be secured while off City premises. For instance, employees must not leave computer equipment in an unlocked vehicle or unattended at any offsite facility. Computer equipment must not be exposed to extreme temperature or humidity.

Software

In general, the City will provide the software required for an employee to perform ~~his or her~~ their job duties. Requests for new or different software should be made the Department Head, who may consult with IT staff.

Unapproved software or downloads (free or purchased), games, screen savers, toolbars, clipart, music/audio, and movie/video clips, that have not been specifically approved by the City may compromise the integrity of the City's computer system and are prohibited.

Employees shall not download or install any software (~~whether~~ free or purchased) or add-ons (such as toolbars or clipart) on any City computer or related device without the prior approval of the IT staff. The only exceptions to this policy are updates to software previously approved by IT such as anti-virus, anti-malware, etc. IT staff may, without notice, remove any unauthorized programs or software, downloads, or other files on any City computer, related equipment, network, or electronic resource.

Electronic Mail

The City provides most employees with an email ~~address-account~~ for work-related use. Minimal personal use of the City email system by employees is allowed, provided it does not interfere with an employee's work and is consistent with all City policies. Using the City's email to participate in any kind of personal listservs or mailing list is prohibited.

Employee emails ~~_(including those that are personal in nature)_~~ may be considered "public" data for both e-discovery and information requests and may not be protected by privacy laws. Personal e-mail transmitted through or saved on the City's e-mail system, computers, network, or other technological resources, may also be monitored as directed by the City Administrator or BPU Commission (for BPU employees only) and without notice to the employee.

In addition, employees must adhere to these email guidelines:

- Do not open email attachments or links from an unknown sender. Review sender's email address, date/time, subject line, and name and file type of attachments to verify legitimacy/relevance. Delete junk or "spam" email without opening. Do not respond to unknown senders.
- Never transmit an email that you would not want your supervisor, other employees, members, city officials, or the media to read or publish (e.g., avoid gossip, personal information, swearing/profanity, etc.).
- Use caution or avoid corresponding by email on confidential communications (e.g., letters of reprimand, correspondence with attorneys, medical information).
- Do not use harassing language (including sexually harassing language) or any other remarks, including insensitive language or derogatory, offensive, or insulting comments or jokes.
- Employees' email use must otherwise comply with all applicable provisions of this policy, all other applicable City policies, and all applicable laws.

Electronic Calendars

A shared calendar environment is provided as part of the City's email software program. All employees are encouraged to keep their electronic calendar up to date and may grant relevant staff the ability to view their calendar. All employees are encouraged to utilize the out of office automatic replies for known absences.

Phone/Voicemail

Voicemail that constitutes an official record of City business must be kept in accordance with all records retention requirements for the department and should be copied to the network for storage. All other voicemails should be deleted from the voicemail system (and email system) when no longer needed. Voicemail may be considered "public" data or otherwise subject to disclosure in accordance with the MGDPA. Employees should contact ~~the City~~ IT staff with any questions about voicemail storage and/or deletion.

Presence/Instant Messaging

Employees who are provided with the City's presence / instant messaging (IM) software should remain logged in when working and may utilize it for communications between City staff. Instant messaging may be considered "public" data, or otherwise subject to disclosure

in accordance with the MGDPA and must be kept in accordance with the City's records retention requirements if they constitute an official record of City business. Employees are not allowed to download or install any ~~other IM-unapproved messaging~~ software on ~~their~~ City ~~computer devices~~.

Intranet

Employees ~~must~~ should keep the City's Intranet as their web browser home page and are encouraged to utilize the documents, announcements, links, and calendars to remain informed and share information with other staff.

Storing and Transferring Files

If you are unsure whether an email or other file is a government record for purposes of records retention laws or whether it is considered protected or private data under the MGDPA or other law, you must check with the City Administrator or applicable BPU Department Head (for BPU employees only)-before deleting or releasing the information or file in question. If you are unsure how to create an appropriate file structure for saving and storing electronic information, contact IT staff.

Employees must adhere to these guidelines when transferring and storing electronic files:

- All electronic files should be stored on network drives or approved web or cloud-based storage locations. IT staff will not back up documents stored on local computer hard drives and hold no responsibility for recovery of documents on local computer hard drives should they fail. Subject to the provisions of this policy, files may be temporarily stored on a ~~laptop hard drive~~ mobile device when an employee is offsite; however, the files should be copied to an approved storage location when ~~the network is seen~~ as possible.
- Electronic files created on an employee's ~~home or~~ personal device or computer must not be transferred to the City's network. City-related files should not be created or stored on an employee's personal device or computer.
- All removable storage media (e.g., CDs, flash or USB drive, or other storage media) must be verified to be virus-free utilizing and IT approved process before being connected to City equipment.
- Email that constitutes an official record of City business must be kept in

accordance with all records retention requirements for the department and should be copied to the network or other approved location for storage.

- Email that is simple correspondence and not an official record of City business should be deleted ~~(from both the "Inbox" and the "Deleted" box)~~ when no longer needed.
- Electronic files or emails that contain nonpublic, private, or confidential data should be stored in a location on the City's network that is properly secured.

Any files containing nonpublic, private, or confidential data should not be stored anywhere other than the City's network or other approved location. Employees must obtain the prior ~~written~~ approval of the Department Head before taking any file containing nonpublic, private, or confidential data offsite.

Personal Devices

Employees with prior approval may choose to use their own equipment to read or compose email or other City data as governed in this policy. Employees understand that by connecting their personal equipment to the City's email ~~system-server~~, their personal devices could be searched during an e-discovery or other court-ordered ~~scenarios, and scenarios and~~ agree to grant access to their personal devices should such a situation arise.

Passwords

Employees are responsible for maintaining computer/network passwords and must adhere to these guidelines:

- Passwords must meet minimum complexity requirements — generally a minimum number of eight or more non-repeating characters and no dictionary word, passphrases are recommended, be at least eight characters long and include at least three of the following: lowercase character; uppercase character; a number; and non-alpha-numeric character (e.g., *, &, %, etc.). (Example: JOyfully!) Password requirements may be changed as necessary designated as determined by IT staff. Employees must change passwords when prompted or as scheduled by IT Staff.
- Multi-factor authentication methods should be used when available for web/cloud-based cloud-based applications. Multi-factor authentication is an additional layer of security beyond just a username/password and generally

requires a code or acknowledgement on a physical device or a code sent by a separate means of communication to another account.

- Passwords should not be shared with anyone including other staff. If it is necessary to access an employee's computer when ~~he or she is~~ they are absent, contact your supervisor; IT staff will not provide access to staff accounts without prior approval.
- Passwords should not be stored in any location on or near the ~~computer,~~ or computer or stored electronically such as in a cell phone or other mobile device unless properly secured.
- ~~Employees must change passwords when prompted or as scheduled by IT staff.~~

Computers and other devices should not be left unattended while a user is logged in - either lock the computer when away (Win+L or Ctrl+Alt+Del) or use a timed screen saver that will require a password to unlock upon return.

Network Access

Non-City-owned computer equipment used in ~~the City's~~ buildings should only use the public wireless connection to the Internet. Under no circumstances should any non-City-owned equipment be connected to the City's computer network wirelessly or via a network cable.

Exceptions may be granted by IT staff.

Personal computer equipment may not be connected to the City's network without prior approval of the IT staff. Personal equipment may be subject to password requirements or other electronic security measures as determined by IT staff.

Staff shall not attempt to circumvent or disable firewalls, anti-virus/anti-malware software, software updates and patches, network/computer security settings, or any other measures put in place to protect the network. If access to necessary resources is obstructed, notify supervisor and/or IT staff to explore options.

Remote Access to the Network

Examples of remote access include, but are not limited to: ~~Outlook Web Access (web mail), virtual Virtual private Private network-Network (VPN), TeamViewer, and~~ Windows Remote Desktop, ~~and Windows Terminal Server~~ connections. While remotely connected to City computer resources, all aspects of ~~the City's this~~ Technology Use Policy will apply, including the following:

- ~~Telework opportunities and r~~Remote access to the City's network including Outlook Web Access requires a job specific reason and/or a request from a supervisor to the City Administrator. Remote access privileges may be revoked at any time by an employee's supervisor, ~~department-Department~~ Head, the City Administrator or IT staff.
- If remote access is from a non-City-owned computer, updated security software (anti-virus and anti-malware) must be installed and operational, and all critical operating system updates must be installed prior to connecting. Failure to comply could result in the termination of remote access privileges.
- Remote access/assistance from third parties is not allowed without prior

approval from IT staff. When remote access/assistance from a third party is granted, their activities must be monitored by City Staff.

- Recreational use of remote connections to the City's network is strictly forbidden. An example of this would be a family member utilizing ~~the~~ a City's cellular data connection to access the internet~~visit websites~~.
- Private or confidential data should not be transmitted over an unsecured wireless connection. Wireless connections that are not secure could pose a security risk if used to transmit ~~City~~ passwords or private data. Unsecure wireless connections may include cellular networks and wireless access points unless proper security protocols are in place.

Security Compromise

If a virus or malware is suspected on any City device, IT staff must be notified immediately. ~~All~~ Any other indications of computer or ~~network~~ security compromise must ~~also~~ be reported to IT staff immediately.

Internet

The internet is available to employees for research, education, and communication directly related to the mission, charter, and tasks of the City. Users must honor copyright laws regarding protected commercial software and intellectual property. Users accessing the internet through the City's computers and related equipment should minimize unnecessary network traffic that might interfere with the ability of others to make effective use of this shared network resource. Users are also responsible for adhering to City standards when browsing the internet. Failure to adhere to City standards puts the City and the individual at risk or legal or financial liabilities, potential embarrassment, and other consequences, including immediate termination of employment and other disciplinary actions. The following considerations apply to all uses of the Internet:

- Information found on the Internet and used for City work must be verified to be accurate and factually correct.
- Approved web browsers include ~~Microsoft Internet Explorer 11~~, Microsoft Edge, Mozilla Firefox, Apple Safari, and Google Chrome. Usage of other browsers requires prior ~~authorize~~ authorization from IT staff.

- Browsing history including cookies, passwords, and temporary files should be cleared from web browsers frequently or set to automatic delete.
- Limited personal use of the Internet is permitted. Employees may not at any time access inappropriate sites. Some examples of inappropriate sites include but are not limited to adult entertainment, sexually explicit material, or material advocating intolerance of other people, races, or religions. If you are unsure whether a site may include inappropriate information, you should not visit it.
- City data should not be stored in any web or cloud-based application that has not been provided or approved by ~~without prior authorization from supervisor and~~ IT staff.
- If an employee's use of the Internet-internet is compromising the integrity of the City's network, IT staff may temporarily restrict that employee's access to the ~~Internet~~internet. If IT staff does restrict access, they will notify the employee and the employee's supervisor as soon as possible, and work with the employee and supervisor to rectify the situation.
- Social media use on City owned computers should be limited to maintaining the City's social media presence. Personal use of social media on City owned computers is discouraged.
- Peer-to-peer software/applications are not permitted.
- All staff internet use must comply with all applicable provisions of this policy, all other applicable City policies, and all applicable law.

The City may monitor or restrict any employee's use of the Internet-internet without prior notice, as deemed appropriate by the employee's supervisor, the City Administrator, or IT staff.

Personal Social Networking on City-Owned Computers and Related Equipment~~Devices~~

Employees should not use City-owned computers or related equipment-devices to post to personal sites, including social networking sites. Employees' personal use of City-owned computers and related equipment-devices should be minimal and must not interfere with their work duties. All personal social networking and other personal use of the City-owned computers and related equipment-devices must comply with the terms of this policy.

Personal Social Networking While Off Duty and the City's Responsibility

The City of Brainerd has a duty to protect the reputation of the organization and its employees as well as guard against any liability and potential legal risk regardless of when and where social networking activity occurs. An employee's own personal communications, such as on social media, can have a significant impact on the public's belief that all city staff will carry out city functions faithfully and impartially and without regard to factors such as race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law.~~race, sex/gender, religion, national origin, disability, sexual orientation, or other protected categories.~~ Nonpersonal communications (performed within one's job duties) to members of the public must be professional at all times. With this in mind, employees must use social media (Facebook, Twitter, blogs, YouTube, etc.) in a manner that follows the following guidelines:

- Individuals should exercise caution and good judgment when social networking.
- Individuals shall not represent that they are speaking or acting on behalf of the City or presenting any interests of the City.
- Individuals are not permitted to display the City of Brainerd logo on any part of their online profiles.
- Individuals never have the right to post non-public, private, or confidential data, such as information related to co-workers personnel data, medical information, or claims or lawsuits against the City, without obtaining the express written consent of the data subject and/or City Administrator ~~or applicable BPU Department Head (for BPU employees only)~~, as appropriate.
- Individuals who use personal social media accounts are not immune from the law. In general, all users of social networking should be aware that the content of these social networking sites can be subpoenaed and used in criminal and civil trials.
- Individuals need to be aware that they have no reasonable expectation of privacy when social networking and use of personal social media accounts are subject to all pertinent City policies, as well as local, state and federal laws.

~~Content that violates existing City policies that exhibit hate, bias, discrimination, pornography, libelous or otherwise defamatory content will not be tolerated.~~

- The City of Brainerd expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements, photographs, video or audio that reasonably may be viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, creed, color, religion, age, sex, marital status, national origin, sexual orientation, disability, status with regard to public assistance, or any other characteristic protected by state or federal law sex, race, national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local human rights commission.
- City resources, working time, or official city positions cannot be used for

personal profit or business interests, or to participate in personal political activity. Some examples: a building inspector could not use the city's logo, email, or working time to promote his/her side business as a plumber; a parks employee should not access a park after hours even though he or she may have a key; a clerk, while working at City Hall, should not campaign for a friend who is running for City Council.

- Personal social media account name or email names should not be tied to the city (e.g., ~~(city name)~~ Brainerd Cop).
- Any personal communications made on a matter of public concern must not disrupt the efficiency of the city's operation, including by negatively affecting morale. Put another way, such public comments must not undermine any city department's ability to effectively serve the public. Disruptive personal communications can include liking or republishing (sharing/retweeting) a social media post of another individual or entity. The City can act on the personal communication that violates this policy without waiting for the actual disruption.

SECTION 32. QUESTIONS OR CONCERNS

All employees are required to be familiar with, and abide by, the terms of these policies. Department Heads and the Human Resource Director are ready to answer questions, or to further explain and obtain information about any phase of this manual which is not clear. All employees should feel free to ask questions of their Department Head, the Human Resource Director, and the City Administrator.

Reviewed and adopted by the City Council

Date: September 3, 2019

Commented [IH108]: Date will need to change

ACKNOWLEDGMENT

I acknowledge that I have received a copy of the City of Brainerd Personnel Policy. I understand that this document contains important information regarding the City's general personnel policies and my privileges and obligations as an employee. I will familiarize myself with the personnel policy and I understand that I am governed by its contents. I further understand that the personnel policy is not an employment contract and that the City may change, rescind or add to any policies, benefits, or practices at its sole discretion with or without prior notice.

Employee Signature

Date

Employee Printed Name

Department

EXHIBIT A

HEALTHCARE INSURANCE PREMIUM CONTRIBUTIONS

- CITY ADMINISTRATOR, DEPARTMENT HEADS, AND SUPERVISORS:

The following premium splits and Employer HSA contributions will be effective for our 2021-2023 High Deductible Health Plan Smart Plan options:

Smart Plan #1 - \$1,400 Health Plan	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>			
<u>Employer</u>			
Single	95%	95%	95%
Family	80%	80%	80%
<u>Employee</u>			
Single	5%	5%	5%
Family	20%	20%	20%
<u>HSA Annual Contribution Amount</u>			
<u>Employer</u>			
Single	\$ 1,710	\$ 1,000	\$ 1,000
Family	\$ 2,137	\$ 1,500	\$ 1,500

Smart Plan #3 = \$2,800 Health Plan	<u>2021</u>	<u>2022</u>	<u>2023</u>
<u>% Contribution to Monthly Premium</u>			
<u>Employer</u>			
Single	95%	95%	95%
Family	80%	80%	80%
<u>Employee</u>			
Single	5%	5%	5%
Family	20%	20%	20%
<u>HSA Annual Contribution Amount</u>			
<u>Employer</u>			
Single	\$ 1,710	\$ 2,000	\$ 2,000
Family	\$ 2,137	\$ 2,500	\$ 2,500

Smart Plan #7 - \$7,000 Health Plan		2021	2022	2023
<u>% Contribution to Monthly Premium</u>				
<u>Employer</u>				
Single		95%	100%	100%
Family		80%	90%	90%
<u>Employee</u>				
Single		5%	0%	0%
Family		20%	10%	10%
<u>HSA Annual Contribution Amount</u>				
<u>Employer</u>				
Single		\$ 1,710	\$ 2,500	\$ 2,500
Family		\$ 2,137	\$ 3,000	\$ 3,000

- All additional employer HSA contributions amounts noted above will be pro-rated based on a monthly contribution.
- The City will front-load the first three months of the additional Employer HAS contribution for all employees by January 31st of each year. Thereafter (effective April 1st), the amount will return and remain as a monthly contribution.
- The City will provide an Opt-Out Option for eligible employees in lieu of the city's health insurance for 2021, 2022 and 2023. If the eligible employee elects the Opt-Out payment for 2021, the monthly Opt-out taxable payment will be \$315 per month. If the eligible employee elects the Opt-Out payment for 2022 or 2023, the monthly Opt-out taxable payment will be \$400 per month.
- The base City health insurance plan for union contract comparison is the embedded \$2,800 High Deductible Health Insurance Plan
- The City will pay 100% of the single and family premium for the Department Heads and Supervisors hired or promoted to such a position before May 1, 2010.

~~The base City health insurance plan is the embedded High Deductible Health Insurance Plan, as approved by the City Council.~~

- ~~○ The City will pay 80% of the family premium for the embedded High Deductible Health insurance plan for the City Administrator, Department Heads and Supervisors hired or promoted to such a position after May 1, 2010, who choose to receive City sponsored family health insurance coverage. The premium cost for single coverage shall be paid at 95% by the City.~~
- ~~○ The City will pay 100% of the single and family premium for the Department Heads and Supervisors hired or promoted to such a position before May 1, 2010.~~

~~○ Employees may choose the \$1,000 Deductible Health Insurance Plan at the same premium splits as noted above at the increased premium cost.~~

~~○ The Additional Employer HSA Contribution and Opt-Out Payment shall follow other union contract provisions that offer the City's insurance plans.~~

• ELECTED OFFICIALS/BRAINERD PUBLIC UTILITIES (BPU)
COMMISSIONERS:

○ Health insurance options for this group includes the following City contributions for the City-sponsored ~~base~~-High Deductible Health Insurance plans:

- 100% of the premium if single health coverage is elected.
- 80% of the premium if family health coverage is elected.

~~○ If someone in this group elects the \$1,000 Deductible Health Insurance Plan instead of the City's base health insurance plan, the individual will be responsible for the premium difference.~~

○ If someone is covered by a different group plan and is eligible to receive the City's Opt-Out payment, individuals in this group can elect to receive \$250 per month as taxable income in lieu of the health insurance benefit.

The City's contribution for all other employees is set in the applicable collective bargaining agreement and/or Council resolutions.

The City ~~continues to provide~~ insurance coverage for former City employees including retirees ~~indefinitely~~ on a self-pay basis pursuant to state law. Please refer to your Group Insurance Plan booklet for a complete description of benefits.

EXHIBIT B

LONG-TERM DISABILITY COVERAGE AND LIFE INSURANCE

- I. **Long-Term Disability Coverage.** Should an employee become disabled as a result of a non-occupational injury or illness, the City will provide long-term disability coverage to cover 50% of your gross monthly income to a maximum of ~~\$5,4174,792~~ per month. This plan takes effect the 1st day of the month coincident with or next following six months of continuous employment.
- II. **Face Amount of Life Insurance for Certain Employees and Elected Officials.** Consistent with the Policy Manual, the City will provide life insurance coverage to elected officials, Department Heads, and non-union supervisors in the following amounts: Mayor, City Council and Public Utilities Commission \$50,000; City Administrator and Department Heads \$100,000; Non-union supervisors \$50,000.

Employees should review the applicable Summary Plan Descriptions for additional details for said policies.;

EXHIBIT C

MINNESOTA HEALTH CARE SAVINGS PLAN CONTRIBUTIONS

All funds collected by the City on behalf of the employee for purposes of contributing to the Minnesota Health Care Savings Plan will be deposited into the employee's individual health care savings plan account as follows:

1. City Administrator and Department Heads:

- a) Employees eligible for severance pay as outlined in Section 27 of the City Employee Policy Manual will contribute 100% of their severance pay into the Plan.
- b) Employees with 0 to 4 years of service will contribute 1% of gross pay each payroll period.
Employees with 5 to 9 years of service will contribute 1.5% of gross pay each payroll period.
Employees with 10 to 14 years of service will contribute 2% of gross pay each payroll period.
Employees with 15 to 19 years of service will contribute 3% of gross pay each payroll period.
Employees with 20 or more years of service will contribute 5% of gross pay each payroll period.
- c) 50% of sick leave accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Health Care Savings Plan contribution.
- d) 100% of accumulated vacation at retirement will be paid into the Plan.

2. Non-Contract Supervisors:

- a) Employees eligible for severance pay as outlined in Section 27 of the City Employee Policy Manual and have 25 years or more of service, will contribute 100% of their severance pay into the Plan.

Commented [KS109]: Department Heads and non-union supervisors should review/update this Exhibit before the EPM is finalized.

Commented [KS110]: Verify Section # when finalized.

Commented [KS111]: This still needs to be approved by the Department Head group.

Commented [KS112]: Verify Section # when finalized.

- b) Employees with 0 to 10 years of service will contribute 1% of gross pay each payroll period.
Employees with 10 to 30 years of service will contribute 2% of gross pay each payroll period.
Employees with 30+ years of service will contribute 3% of gross pay each payroll period.
- c) 50% of sick leave accrual over 960 hours, will on a calendar year basis, be paid by the Employer into the employee's post-employment health care savings plan. It is understood that any sick leave used throughout the year will be deducted from the 960-hour balance and that the employee must then earn back to the 960 hours before any hours are accumulated for purposes of the Post Employment Health Care Plan contribution.
- d) 100% of accumulated vacation at retirement will be paid into the Plan.

100% of the City of Brainerd's Early Retirement Incentive Program (ERIP) payment will be paid into the Plan. **D**

Commented [KS113]: This is being reviewed by City and BPU Finance Directors

BPU Department Head Review Form

Employee Evaluation Form

I. EMPLOYEE INFORMATION		
Employee Name:		Job Title:
BPU Commissioner:		Review Period From: / / To: / /
II. CORE VALUES AND OBJECTIVES		
PERFORMANCE CATEGORY	RATING	COMMENTS AND EXAMPLES
Quality of Work: Work is completed accurately (few or no errors), efficiently and within deadlines with minimal supervision	☐ Exceeds expectations ☐ Meets expectations ☐ Needs improvement ☐ Unacceptable	
Attendance & Dependability: Demonstrates regular and punctual attendance at meetings; arrives prepared; is reliable, responsible, and dependable in fulfilling obligations. Follows up with Commission directed items in a timely matter.	☐ Exceeds expectations ☐ Meets expectations ☐ Needs improvement ☐ Unacceptable	
Functional/Technical Skills: Has the functional and technical knowledge and skills to do the job at a high level of accomplishment.	☐ Exceeds expectations ☐ Meets expectations ☐ Needs improvement ☐ Unacceptable	
Integrity and Trust & Ethics and Values: Widely trusted, direct, truthful, keeps confidence, admits mistakes, does not misrepresent information or themselves. Adheres to the core values, acts in line with those values, rewards those values in others, and demonstrates in both word and action.	☐ Exceeds expectations ☐ Meets expectations ☐ Needs improvement ☐ Unacceptable	
Customer Focus: Dedicated to meeting the expectations and requirements of both internal and external customers. Uses customers information to improve services. Acts with the customer in mind. Established and maintains effective relationships with customers and gains their trust and respect.	☐ Exceeds expectations ☐ Meets expectations ☐ Needs improvement ☐ Unacceptable	
Interpersonal Savvy & Listening: Relates well to all kinds of people, builds appropriate rapport and constructive relationships. Uses diplomacy and tact. Can defuse high tension situations. Practices attentive and active listening. Has patience to hear people out. Can accurately restate the needs and opinions of others (even when they disagree).	☐ Exceeds expectations ☐ Meets expectations ☐ Needs improvement ☐ Unacceptable	
Motivating Others: Creates a climate where others want to do their best. Can assess individuals to determine that motivates them best. Can delegate tasks and decisions down. Empowers others. Invites input from others and shares ownership and visibility. Someone others like working for and with.	☐ Exceeds expectations ☐ Meets expectations ☐ Needs improvement ☐ Unacceptable	



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Approve Additional Costs of Clean-Up Day Event

☐ 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: At the April 4, 2022 Council meeting, Council approved the concept for a city-wide clean-up day with a budget of \$4,500 for purchasing dumpsters for use from GreenDay Rolloff and Landscaping. This cost was to be paid for out of the Special Projects budgeted line item. This was a fundraiser for the Lakes Area Skatepark Association. The proposal that was included in the April 4, 2022 packet is attached. The invoice from GreenDay was received by the City in the amount of \$8,774.90.	
Alternatives, Options, Effects on Others/Comments: Per the agreement, the landfill charges would be collected and paid for by the Association, and those charges were paid directly to GreenDay. GreenDay also waived fuel Surcharge costs as a donation. The proposal was for 3 - 20 CY dumpsters and 4 - 30 CY dumpsters. 5 - 20 CY dumpsters and 9 - 30 CY dumpsters were needed/used for the event resulting in the event being almost \$4,300 over budget. The special projected budgeted line item for 2022 is \$28,000. \$8,500 has been paid out of this line item to date.	
Recommended Action/Motion: Authorization for Staff to use the Special Projects budgeted line item to pay for the actual dumpster costs for the city-wide clean-up, in the amount of \$8,774.90	
Financial Impact: Is there a cost associated with this request: ☒ Yes ☐ No What is the total cost, with tax and shipping \$ Add'l \$4,300 Is this budgeted? ☒ Yes ☐ No see above <u>Please Explain:</u>	

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.



6157 Pine Beach Rd
Brainerd, MN 56401
(218) 825-8141
greendaymn.com

Invoice

Date	Invoice #
5/23/2022	587

Bill To
City of Brainerd Attn: City Engineer 501 Laurel Street Brainerd, MN 56401

			Project	Terms
			Lakes Area Skate Park	Net 30
Date	Quantity	Description	Rate	Amount
5/21/22	1	20 Yard Dumpster #2009	460.00	460.00
		Fuel Surcharge	16.00%	73.60
	1	30 Yard Dumpster #3021	680.00	680.00
		Fuel Surcharge	16.00%	108.80
		MMSW Tax	9.75%	66.30
	1	30 Yard Dumpster #3018	680.00	680.00
		Fuel Surcharge	16.00%	108.80
		MMSW Tax	9.75%	66.30
	1	30 Yard Dumpster #3014	680.00	680.00
		Fuel Surcharge	16.00%	108.80
	1	30 Yard Dumpster #3021	680.00	680.00
		Fuel Surcharge	16.00%	108.80
		MMSW Tax	9.75%	66.30
	1	20 Yard Dumpster #2009	460.00	460.00
		Fuel Surcharge	16.00%	73.60
		MMSW Tax	9.75%	44.85
	1	30 Yard Dumpster #3018	680.00	680.00
		Fuel Surcharge	16.00%	108.80
	1	30 Yard Dumpster #3021	680.00	680.00
		Fuel Surcharge	16.00%	108.80
Make checks payable to GreenDay Rolloff Service			Total	
THANK YOU FOR YOUR BUSINESS!			Payments/Credits	
			Balance Due	



6157 Pine Beach Rd
Brainerd, MN 56401
(218) 825-8141
greendaymn.com

Invoice

Date	Invoice #
5/23/2022	587

Bill To
City of Brainerd Attn: City Engineer 501 Laurel Street Brainerd, MN 56401

RECEIVED

JUN 24 2022

**CITY OF BRAINERD
ADMINISTRATION**

			Project	Terms
			Lakes Area Skate Park	Net 30
Date	Quantity	Description	Rate	Amount
	1	20 Yard Dumpster #2010	460.00	460.00
		Fuel Surcharge	16.00%	73.60
	1	20 Yard Dumpster #2016	460.00	460.00
		Fuel Surcharge	16.00%	73.60
	1	30 Yard Dumpster #3014	680.00	680.00
		Fuel Surcharge	16.00%	108.80
		MMSW Tax	9.75%	66.30
	1	30 Yard Dumpster #3020	680.00	680.00
		Fuel Surcharge	16.00%	108.80
	1	20 Yard Dumpster #2009	460.00	460.00
		Fuel Surcharge	16.00%	73.60
		MMSW Tax	9.75%	44.85
	1	30 Yard Dumpster #3009	680.00	680.00
		Fuel Surcharge	16.00%	108.80
		Extra fees		
	11	Mattress	30.00	330.00
	20	Tires	2.00	40.00
	26	Furniture	7.00	182.00
		Discount on Fuel Surcharge for contribution	-1,347.20	-1,347.20
Make checks payable to GreenDay Rolloff Service			Total	\$9,326.90
			Payments/Credits	-\$552.00
			Balance Due	\$8,774.90

THANK YOU FOR YOUR BUSINESS!



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Res - Appointing & Setting pay for Election Judges for Elections

☐ 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: Attached is a copy of the resolution passed by Council in 2020 setting pay for election and trainee judges. \$15 per hour for head judges and \$12 per hour for election and trainee judges. Currently the City does not pay mileage to anyone, but head judges do get an hour of pay for picking up supplies the day before each election, and lunch and dinner is provided at each precinct on the election days - pizza and subs. In 2020, it was determined by Council to pay the same hourly rates as the County and to spend \$500 for meals per election.	
Alternatives, Options, Effects on Others/Comments: Attached is information that the County collected recently. The County is going to pay \$15 for election and trainee judges and \$20 for head judges for 2022 election. Judges are reimbursed at the standard IRS mileage rate, no meals provided. It is difficult to staff 7 precincts with 6-10 election judges from 5:30 a.m. to 10:00 + p.m. It is very long days for our election judges and we don't have enough judges to do shifts. Therefore staff's recommendation would be to increase the election judge pay to equal Crow Wing County's rates and to review providing lunch and dinner on election day. Staff does not believe \$500 for lunch and dinner per election will be enough in the 2022 election with the increase food prices. Staff feels based on actual costs from previous elections \$700-\$1,000 would be appropriate. \$30,000 was budgeted for elections in 2022. Approximately, \$26,500 and \$22,200 was spent on elections in 2020 and 2018, respectively. The resolution also appoints election judges prior to the July 15, 2022 statutory deadline.	
Recommended Action/Motion: Discussion and adoption of the attached draft resolution appointing and setting wages for election judges.	
Financial Impact: <i>Is there a cost associated with this request:</i> ☒ Yes ☐ No <i>What is the total cost, with tax and shipping</i> \$ _____ <i>Is this budgeted?</i> ☒ Yes ☐ No <i>Please Explain:</i>	

RESOLUTION NO. 16:20

**RESOLUTION SETTING PAY FOR ELECTION JUDGES FOR TRAINING AND THE
PRIMARY AND GENERAL ELECTIONS**

BE IT RESOLVED by the Council of the City of Brainerd that the judges of the Election are those individuals who have completed training as required by MN Statutes and are on file with the Administrator's Office.

BE IT FURTHER RESOLVED, that the rate of pay of judges for the election be fixed as follows:

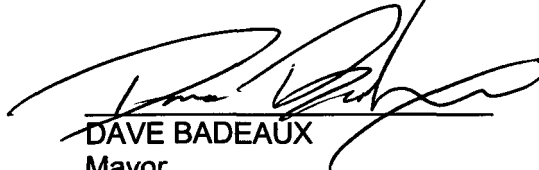
Precinct Head and Assistant Head Judges - \$15.00 per hour;
Election Judges - \$12.00 per hour;
Trainee Election Judges \$12.00 per hour.

Adopted this 6th day of April, 2020



GABE JOHNSON
President of the Council

Approved this 7th day of April, 2020



DAVE BADEAUX
Mayor

ATTEST: 

JENNIFER BERGMAN
City Administrator

City/Township Name	Regular Election Judge Wage?	Head Election Judge Wage	Do you pay mileage for training & election day?	If mileage is paid, what is the mileage rate?
Nokay lake	\$15.00	\$25.00	Yes	\$0.585
St Mathias Township	11	12	Yes	State mileage for 2022
Baxter	\$12 per hour	\$15 per hour	Yes	\$.585 to deliver returns to
Ironton	12	15	Yes	0.58/mile
Ideal Township	15	15	Yes	0.585
Roosevelt Township	20	20	Yes	0.585
Nisswa	12.00 per hour	N/a we have City Staff be Head	No	
Mission Township	\$12 hour	\$12 hour	Yes	.58 - IRS standard 2022 rate
Breezy Point	15.00 per hour	17.00 per hour	Yes	Pay mileage only for trainings at the
Daggett Brook	20/hr	20/hr	Yes	IRS rate (0.585 for 2022)
Irondale Township	\$15 per hour	\$20 per hour	Yes	0.585 cents per mile
Deerwood	\$15	\$20	Yes	0.585
	was \$14.00 for 2020 election not			
Fifty Lakes	sure if it is going up	Deputy Clerk wage \$26	Yes	0.585
Bay Lake	\$12	\$15	Yes	0.585
Emily	\$12	\$12.50	Yes	Mileage for training only at standard
Pequot Lakes	12	15	Yes	58.5
Center Township	12.00 per hr	16.00 per hr	Yes	IRS rate
		\$20.00/ township officials get the hourly rate we normally		only for training if they have to drive for it. then the same as federal.
Maple Grove Township	\$10.00 an hour	receive	Yes	
Garrison Township	18	19	Yes	58.5
Oak Lawn Township	\$15	\$17	No	
Fort Ripley	15/hr	17/hr	Yes	0.85/mile
Fairfield	12	15	Yes	Federal rate
Crow Wing Township	\$13/hour	\$18/hour	Yes	.585 cents/mile
Lake Edward	\$12.00	\$15.00	No	
				MILEAGE ONLY FOR TRAINING AT
CROSSLAKE	15	N/A	Yes	IRS RATE
				Mileage is paid only for training and
Wolford	12.00hr	15.00hr	No	is paid at the federal rate

RESOLUTION NO. XX:22

**RESOLUTION APPOINTING & SETTING PAY FOR ELECTION JUDGES FOR
TRAINING AND THE PRIMARY AND GENERAL ELECTIONS**

BE IT RESOLVED by the Council of the City of Brainerd that the judges of the Election are those individuals who have completed training as required by MN Statutes and are on file with the Administrator's Office.

BE IT FURTHER RESOLVED, that the rate of pay of judges for the election be fixed as follows:

Precinct Head and Assistant Head Judges - \$.00 per hour;
Election Judges - \$.00 per hour;
Trainee Election Judges \$.00 per hour.

Adopted this ____ day of ____, 2022

KELLY BEVANS
President of the Council

Approved this ____ day of ____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator



Brainerd City Council Agenda Request

Requested Meeting Date: June 22, 2022

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 meeting, the Council made a motion to formally request refund of unspent funds contributed to Lakes Media Collaborative be returned to the City. A letter from the City Attorney was sent September 20, 2021 and no response was received. At the June 6, 2022 meeting the Council made a motion to send another letter to Mr. Henschke. The attached letter was sent to Lakes Area Media Collaborative was sent June 15, 2022 to Mr. Henschke and Ken Nols, Nancy Cross, and Chris Ford.	
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



June 14, 2022

Ken Dols
10053 Gilbert Trail
Brainerd, MN 56401

Chris Ford
20516 Carolyn Lane
Brainerd, MN 56401

Nancy Cross
12843 Eagle Dr.
Baxter, MN 56425

RE: City of Brainerd / LAMC
Our File No. 4034-0170

Dear Board Members:

Following communications between Mr. Henschke and the City Council last summer, I wrote a letter to Mr. Henschke dated September 20, 2021, requesting the return of funds provided to LAKES for the purpose of supporting public access television. To date, no response was received.

I wish to emphasize that the Council's request was not in jest. The Council provided a considerable amount of taxpayer funding for services that were not rendered, and it is the City's understanding from the 2021 meetings that a large fund balance remains in your account. Given that no services are being rendered, and it is anticipated that none ever will be, those funds need to be returned to the City. Please advise of your intentions within 30 days. In the event no response is received, the City will determine the next appropriate steps.

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: 466848

Over 35 Years of Service



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Final Reading - Proposed Ordinance No. 1534

☐ 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): James Kramvik, CDD	Estimated Time Needed: 5 minutes
Summary of Issue: This proposed Ordinance imposes a six-month moratorium on the conversion of dwelling units to green space or surface parking in the R-1 zoning district. The city has a shortage of housing, particularly affordable housing. Removal of dwelling units for the establishment of green space or surface parking adds to the overall shortage of housing. The city needs time to study this problem and develop changes to the Code to address this issue.	
Alternatives, Options, Effects on Others/Comments: The City shall not accept or process applications for the demolition of a dwelling unit in the R-1 zone without an accompanying application for construction of a new dwelling. City staff and the Planning Commission shall study the issues related to conversion of dwelling units and shall provide recommendations to the City Council concerning proposed changes to the City Code. The Brainerd Housing and Redevelopment Authority, the Brainerd Economic Development Authority, and Crow Wing County are exempt from this moratorium. Also exempted is the removal of any unsafe or hazardous structures by the City pursuant to its statutory authority.	
Recommended Action/Motion: 1) Motion to conduct the final reading of Proposed Ordinance No. 1534. * Note: a vote to dispense with the actual reading of the ordinance must be unanimous. 2) Hold a public hearing on Proposed Ordinance No. 1534. 3) Motion to adopt Proposed Ordinance No. 1534, an ordinance that imposes a six-month moratorium on the conversion of dwelling units to green space or surface parking in the R-1 zoning district.	
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

The City of Brainerd City Council will be conducting a public hearing to consider the adoption of Proposed Ordinance No. 1534 which places a temporary moratorium on prohibiting the conversion of dwellings to green space or surface parking in the R-1 Single Family Residential District.

A Public Hearing will be conducted by the City Council at 7:30 p.m. Tuesday, July 5, 2022, in City Hall Council Chambers, 501 Laurel Street, Brainerd.

The public is invited to attend the hearing to offer input regarding the proposed interim ordinance. Any individual needing special accommodations please call (218) 828-2307.

Dated this 17th day of June 2022

Publication Date: June 22nd, 2022

A handwritten signature in dark ink, appearing to read "James L. Kramvik", is written over a horizontal line.

James L. Kramvik
Community Development Director

**ORDINANCE
NO. 1534**

**AN INTERIM ORDINANCE PLACING A TEMPORARY MORATORIUM ON PROHIBITING
THE CONVERSION OF DWELLINGS TO GREEN SPACE OR SURFACE PARKING IN THE
R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**

THE CITY COUNCIL OF THE CITY OF BRAINERD DOES ORDAIN:

SECTION ONE: Purpose.

Pursuant to the authority granted under Minnesota Statutes section 462.355, subdivision 4, this Ordinance imposes a six-month moratorium on the conversion of dwelling units to green space or surface parking in the R-1 zoning district.

SECTION TWO. Preliminary Findings.

It is in the public interest to declare a moratorium on conversions of dwellings to green space and/or surface parking for the following reasons:

1. The purchase and removal of dwelling units to either green space or surface parking impairs the tax base, both on the property being converted and among adjacent properties.
2. Public entities, non-profit organizations, and commercial businesses within and adjacent to the R-1 zone continue to acquire dwelling units in anticipation of converting them to green space or parking. This practice is part of a spiral of decline witnessed in the vicinity of such conversions.
3. The city has a shortage of housing, particularly affordable housing. Removal of dwelling units for the establishment of green space or surface parking adds to the overall shortage of housing.
4. The city needs time to study this problem and develop changes to the Code to address this issue.

SECTION THREE. Moratorium.

The City shall not accept or process applications for the demolition of a dwelling unit in the R-1 zone without an accompanying application for construction of a new dwelling, along with reasonable surety that such a dwelling will be constructed. A signed contract with a third-party contractor to construct a new dwelling shall be considered reasonable surety, as are other forms of financial security adequate to ensure follow-through.

The Brainerd Housing and Redevelopment Authority, the Brainerd Economic Development Authority, and Crow Wing County are exempt from this moratorium.

Also exempted is the removal of any unsafe or hazardous structures by the City pursuant to its statutory authority.

SECTION FOUR. Study.

During the period of this moratorium, City staff, the Planning Commission, and the Community Development Director shall study the issues related to conversion of dwelling units to green space and dwelling units to parking in the City of Brainerd and shall provide recommendations to the City Council concerning proposed changes to the City Code.

SECTION FIVE. Effective Date.

This ordinance becomes effective from and after its passage and publication for a period of six-months.

Adopted this _____ day of _____, 2022

KELLY BEVANS
President of the Council

Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published: One Time – _____



Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Final Reading - Proposed Ordinance No. 1535

☐ 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): James Kramvik, CDD	Estimated Time Needed: 20 minutes
Summary of Issue: Proposed Ordinance No. 1535 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 June 15 and recommended to accept the proposed zoning code as presented with all marked additions. The City Council conducted the first reading of Proposed Ordinance No. 1535 on June 20. Community Development Director Kramvik, SHC Consultant Jennifer Haskamp, and Planning Commission Chair Mike Duval will give a summary of changes prior to the Council's consideration of this proposed ordinance.	
Recommended Action/Motion: 1) Motion to conduct the final reading of Proposed Ordinance No. 1535, 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) Hold a public hearing on Proposed Ordinance No. 1535. 3) Motion to adopt Proposed Ordinance No. 1535, 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>	

NOTICE OF HEARING

The City of Brainerd City Council will be conducting a public hearing to consider the adoption of a revised and updated Zoning Code and Zoning Map in the form of Proposed Ordinance No. 1535 which completely repeals and replaces Section 515 of the City Code and the Zoning Map. The revised Zoning Code and Map include new and modified zoning districts, specific use standards, and building and site design standards.

A Public Hearing will be conducted by the City Council at 7:30 p.m. Tuesday, July 5, 2022, in City Hall Council Chambers, 501 Laurel Street, Brainerd.

The public is invited to attend the hearing to offer input regarding the proposed Zoning Code and Map. Any individual needing special accommodations please call (218) 828-2307.

Dated this 17th day of June 2022

Publication Date: June 22nd, 2022



James L. Kramvik
Community Development Director

NOTICE OF HEARING

The City of Brainerd Planning Commission will be conducting a public hearing to consider the adoption of a revised and updated Zoning Code and Zoning Map. The revised Zoning Code and Map include new and modified zoning districts, specific use standards, and building and site design standards.

A Public Hearing will be conducted by the Planning Commission at 6:00 p.m. Wednesday, June 15, 2022, in City Hall Council Chambers, 501 Laurel Street, Brainerd.

The public is invited to attend the hearing to offer input regarding the proposed Zoning Code and Map. Any individual needing special accommodations please call (218) 828-2307.

Dated this 1st day of June 2022

Publication Date: June 5, 2022

A handwritten signature in dark ink, appearing to read "James L. Kramvik", written over a horizontal line.

James L. Kramvik
Acting Community Development Director

**ORDINANCE
NO. 1535**

**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
 - d. Dal Mar Estates

SECTION THREE: Repeal and Replacement.

4. Notice is hereby given that on June 20, 2022 and July 5, 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

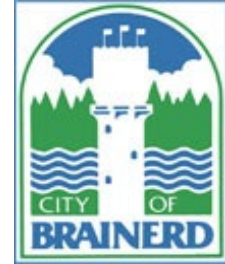
Approved this _____ day of _____, 2022

DAVE BADEAUX
Mayor

ATTEST: _____
JENNIFER BERGMAN
City Administrator

Published: One Time – _____

MEMO



TO: Planning Commission

FROM: James Kramvik, Community Development Director

DATE: June 10, 2022

RE: Discussion of Residential Uses in the Public/ Semi-Public (PSP) District
Public Hearing and Recommendation for Proposed Zoning Code and Map

Public/ Semi-Public (PSP) Residential Use Discussion

Planning Commission directed staff at the May 18th, 2022 Planning Commission meeting to create a report on the potential of residential uses in the Public/ Semi-Public (PSP) District. The new proposed zoning code's Appendix A: Table of Uses does not currently allow for any residential uses in the PSP district. Prior to the May 18th zoning code discussion, staff was approached with questions about the possibility of a multi-family residential development at the YMCA property located at 602 Oak St, which is currently proposed as PSP. Upon further review of the PSP District with Swanson Haskamp Consulting, staff believes the omission of residential uses in the PSP District is an oversight that should be corrected in the new proposed zoning code.

Uses Allowed in the (PSP) District that may need Residential Housing

- College and universities
- Hospitals
- Places of worship & related buildings
- Community centers

Staff Recommendations

Staff recommends adding single family detached dwelling unit, single family attached dwelling unit (2-4 units), multi-family attached dwelling units (5+units), and senior housing to the table of uses in the PSP District. Staff also recommends that any residential use must be accessory to the principal public-semi-public use and must obtain a Conditional Use Permit. Such use may not be separated from the principal use without an amendment to the CUP and may require rezoning. All principal uses must be identified as a public-semi-public use on the Table of Uses.

Public Hearing and Recommendation for Proposed Zoning Code and Map

After 15 months of dedicated work and 2 months of revisions 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, June 5, 2022. Prior to the public hearing being held, Community Development Director Kramvik will provide a brief presentation, summarizing the proposed Zoning Code and the revisions that have been made over the past two months.

The final drafts of the proposed zoning code and zoning map are attached.

Staff Recommendations

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 with the changes to the PSP District (515-2-17.B Permitted Uses and the Appendix A: Table of Uses).

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.

Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

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Brainerd, MN
Chapter 515 ZONING (DRAFT for PUBLIC HEARING)

515-2-4 Rural Living Zoning Districts (RL-1 and RL-2)

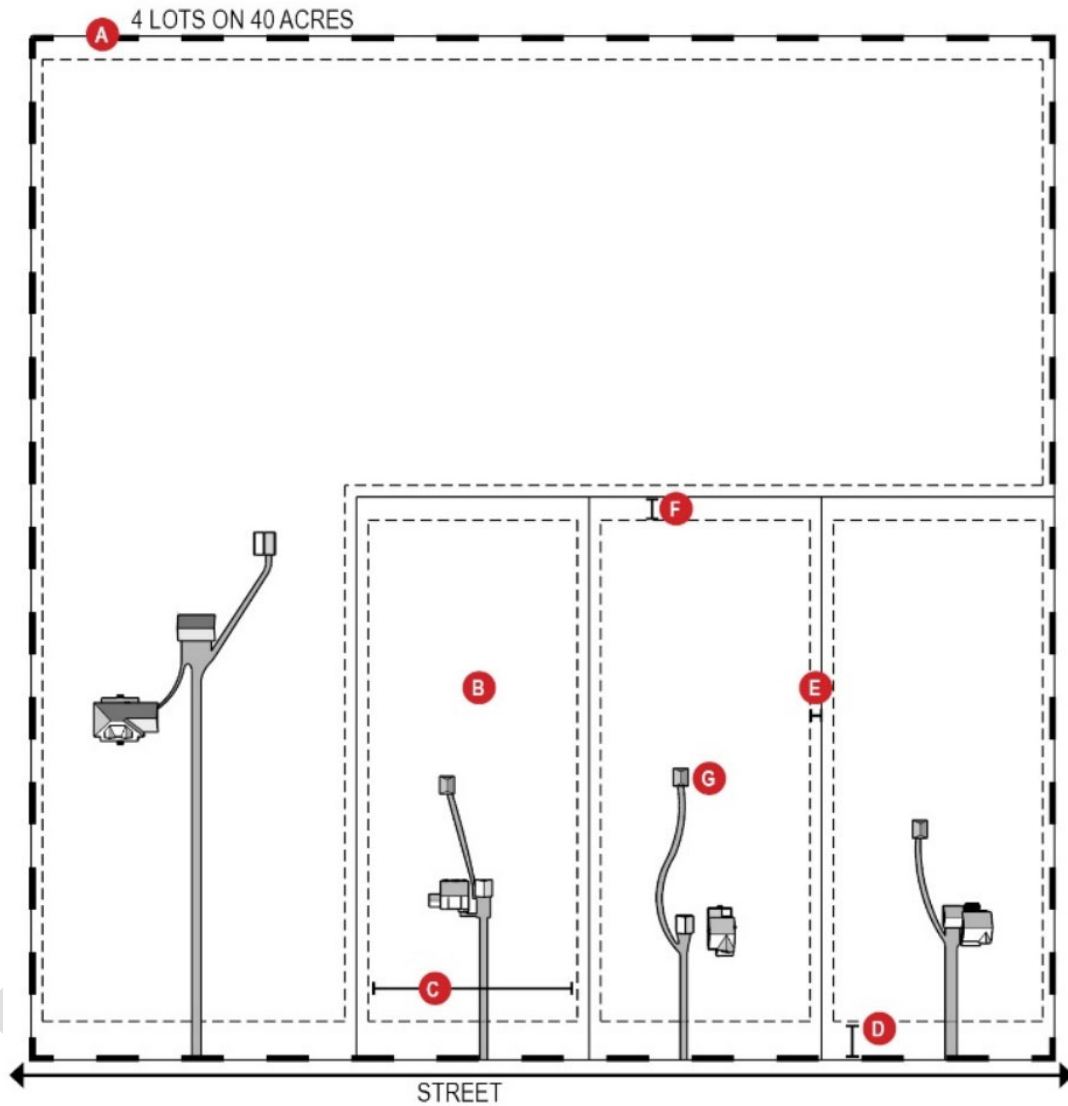
- A. **Purpose of Rural Living Zoning Districts.** The RL Districts are intended for areas where Urban Services are not presently available. Lands zoned RL-1 do not currently have Urban Services, but future subdivision may occur when the expansion of Urban Services is economical. Lands zoned RL-2 are served by private well and septic and there are no plans for future expansion of Urban Services to the property.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **RL-1 and RL-2 Zoning District Dimensional Standards.** Table 515-2-4.1 identifies the Dimensional Standards for Principal and Accessory Structures.

Table 515-2-4.1. RL-1 and RL-2 Dimensional Standards – Density, Lot Size, Coverage and Height Standards

Lot Dimensions		
		RL-1
		RL-2
A	Lot Size (minimum) Density (maximum)	1 Acre 4 DU/40 Acre
B	Buildable Area (minimum)	0.75 Acre
C	Lot Frontage on All Roads (minimum)	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)

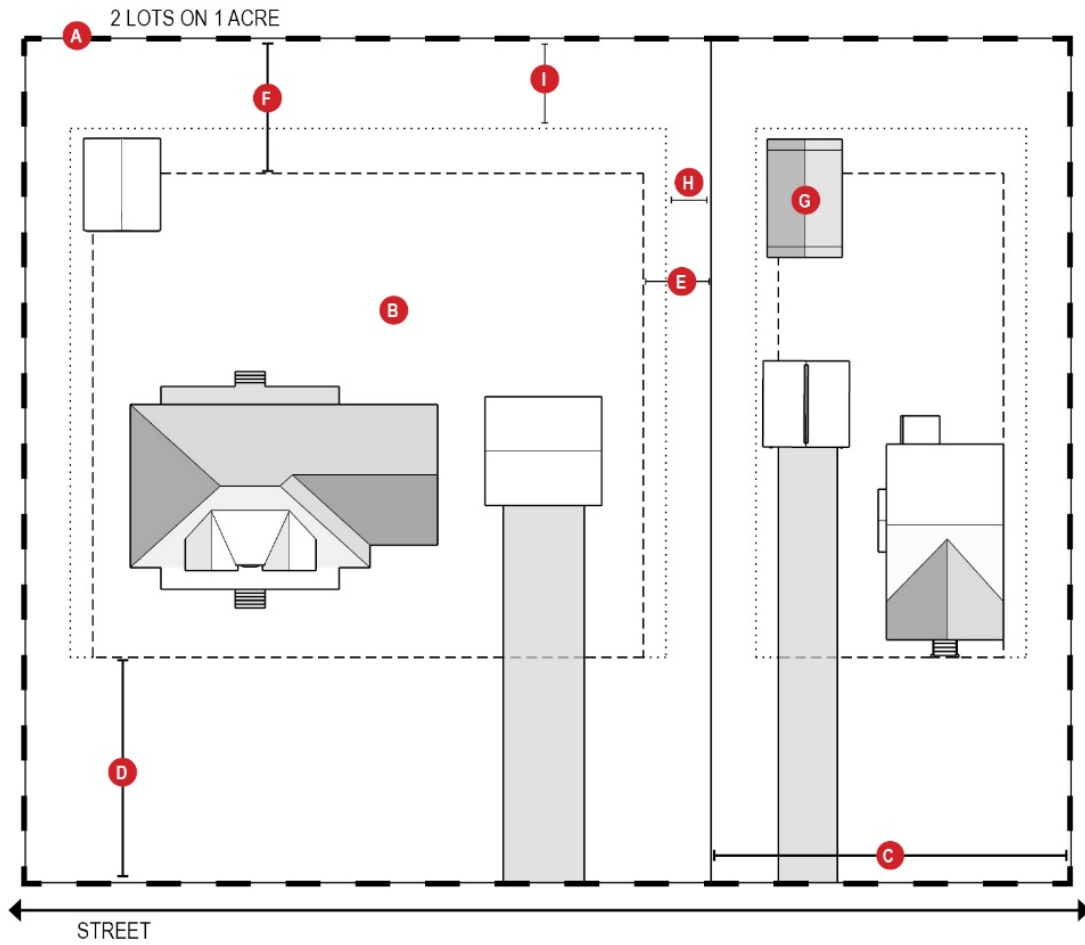
- A. **Purpose of Garden Living Zoning District.** The GL Zoning District is intended for areas where Urban Services are available, and lots and parcels are served by public water, sewer, stormwater, streets and other public infrastructure. Lands zoned Garden Living are predominantly developed with single-family 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)

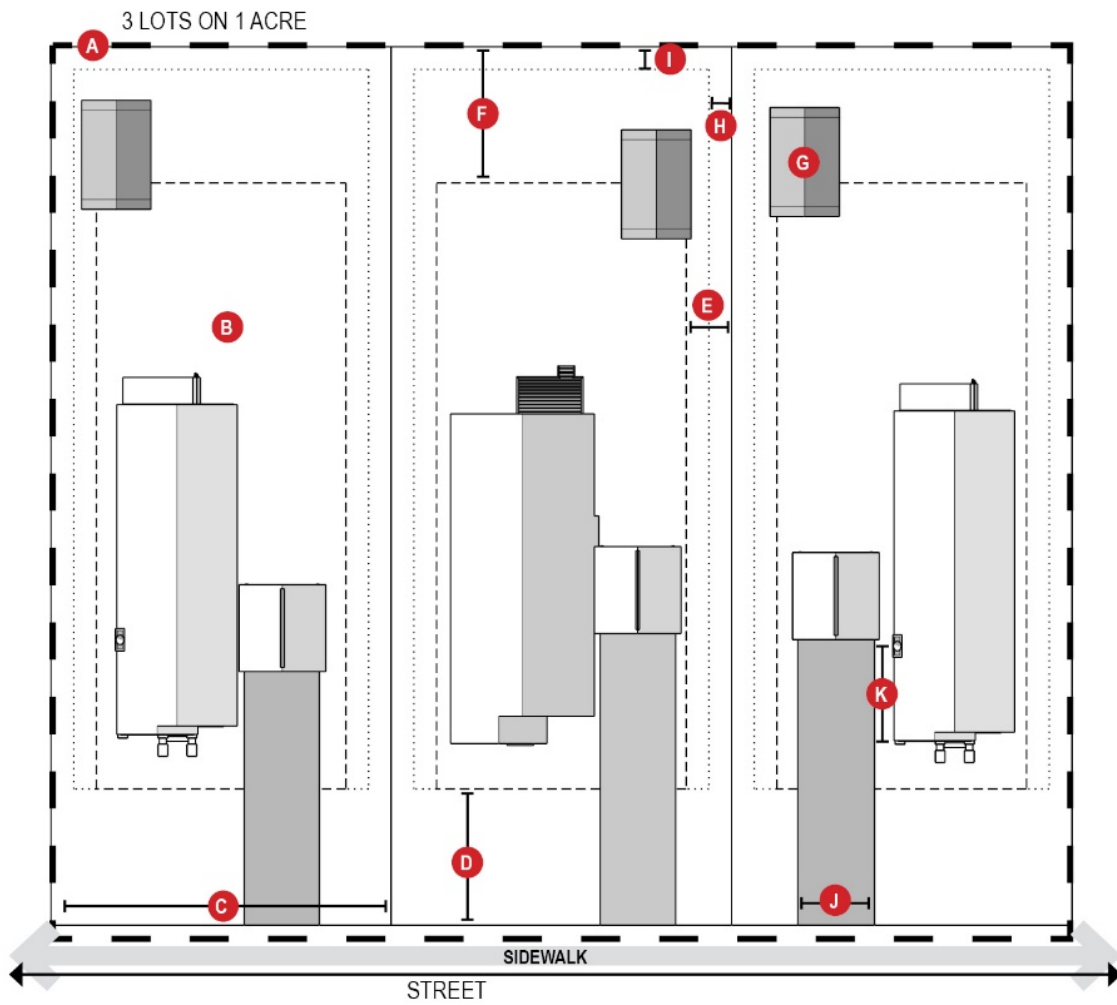
- A. **Purpose of Contemporary Neighborhood 1 Zoning District.** The purpose of the CN-1 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Lots in this District are typically developed with front-loaded garages, with larger private yard 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)

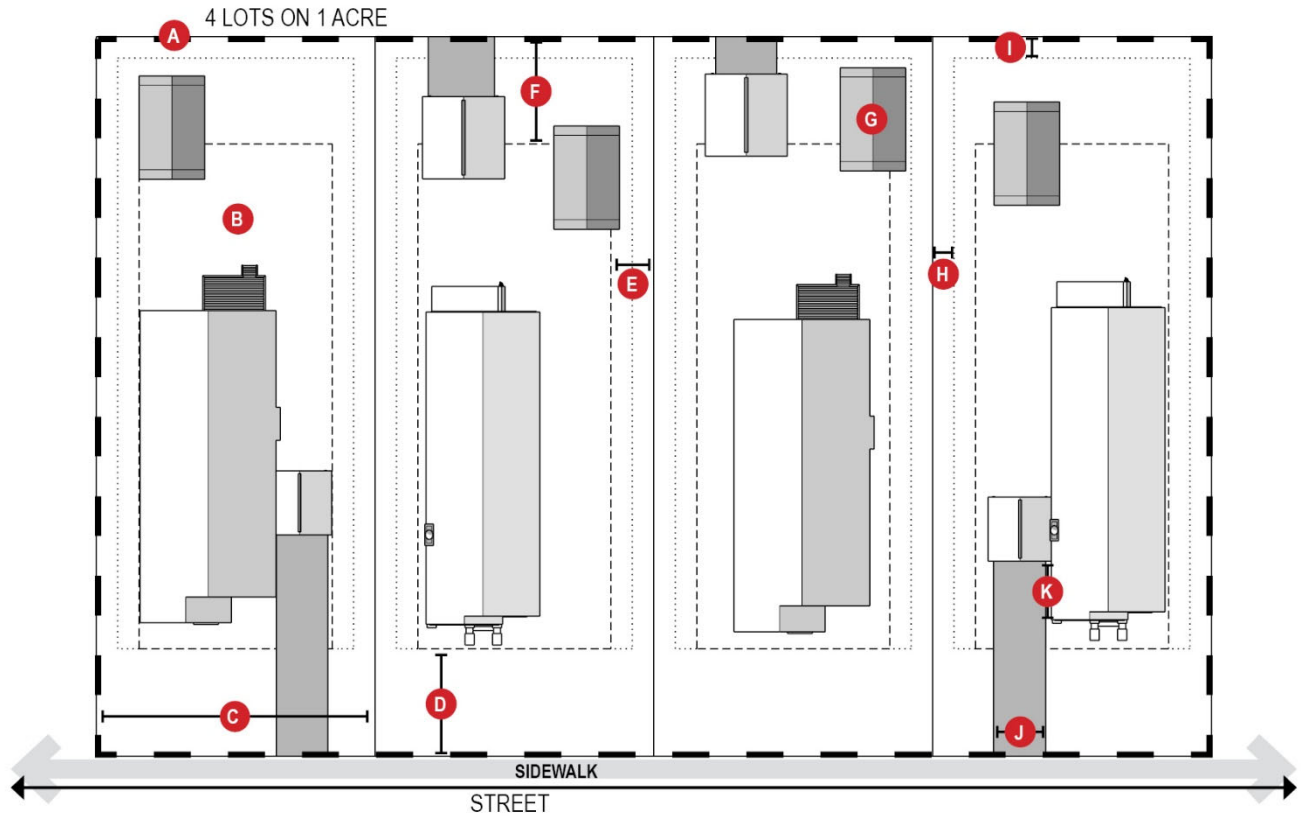
- A. **Purpose of Contemporary Neighborhood 2 Zoning District.** The CN-2 Zoning District is intended for predominantly single-family detached residential uses and associated accessory uses. Some single-family attached and multi-family uses may be present woven throughout this District. Lots in this 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)

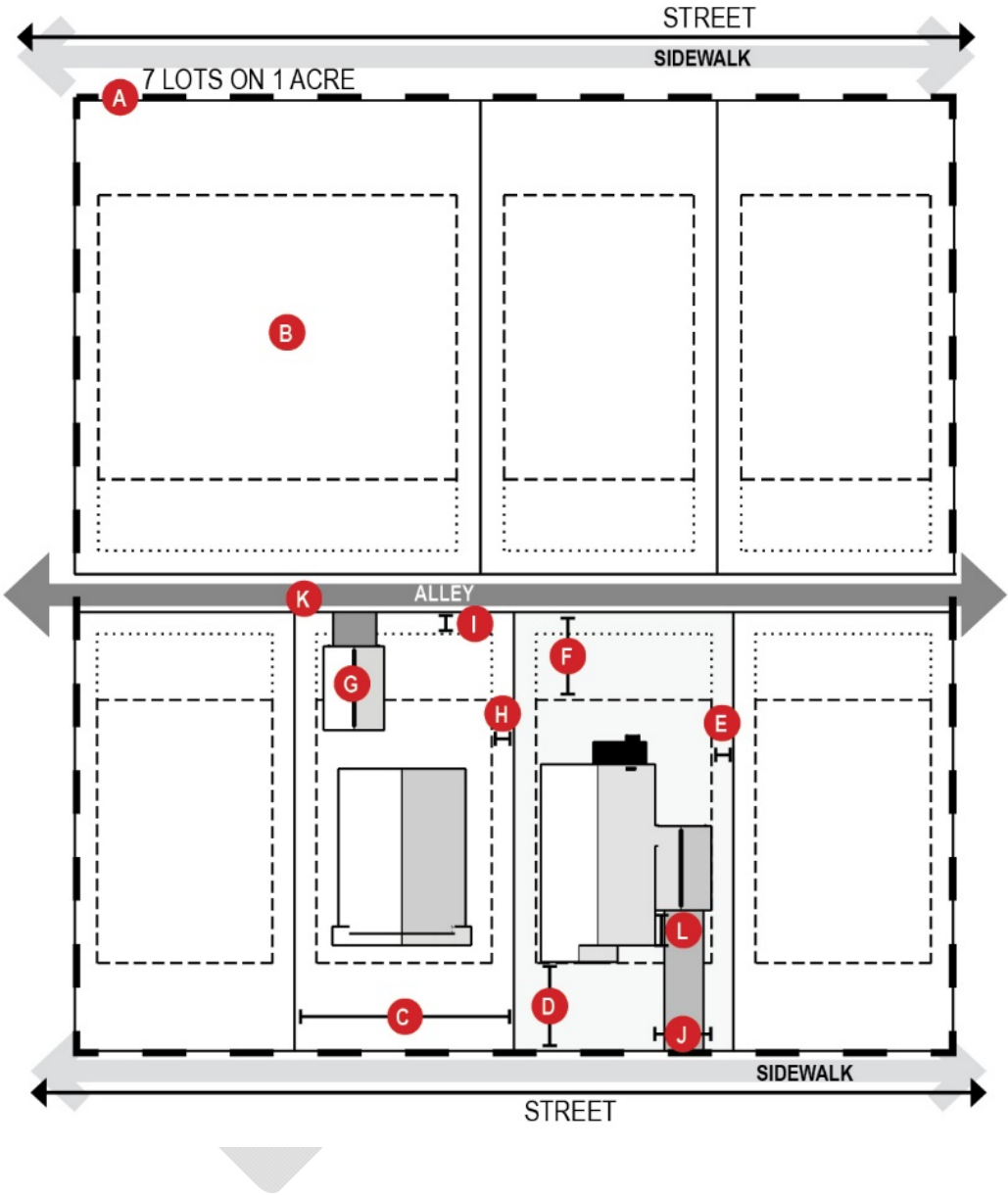
- A. **Purpose of Traditional Neighborhood 1 Zoning District.** The TN-1 Zoning District is intended to provide for a compact, pedestrian-oriented mix of residential uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports future development or redevelopment 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)

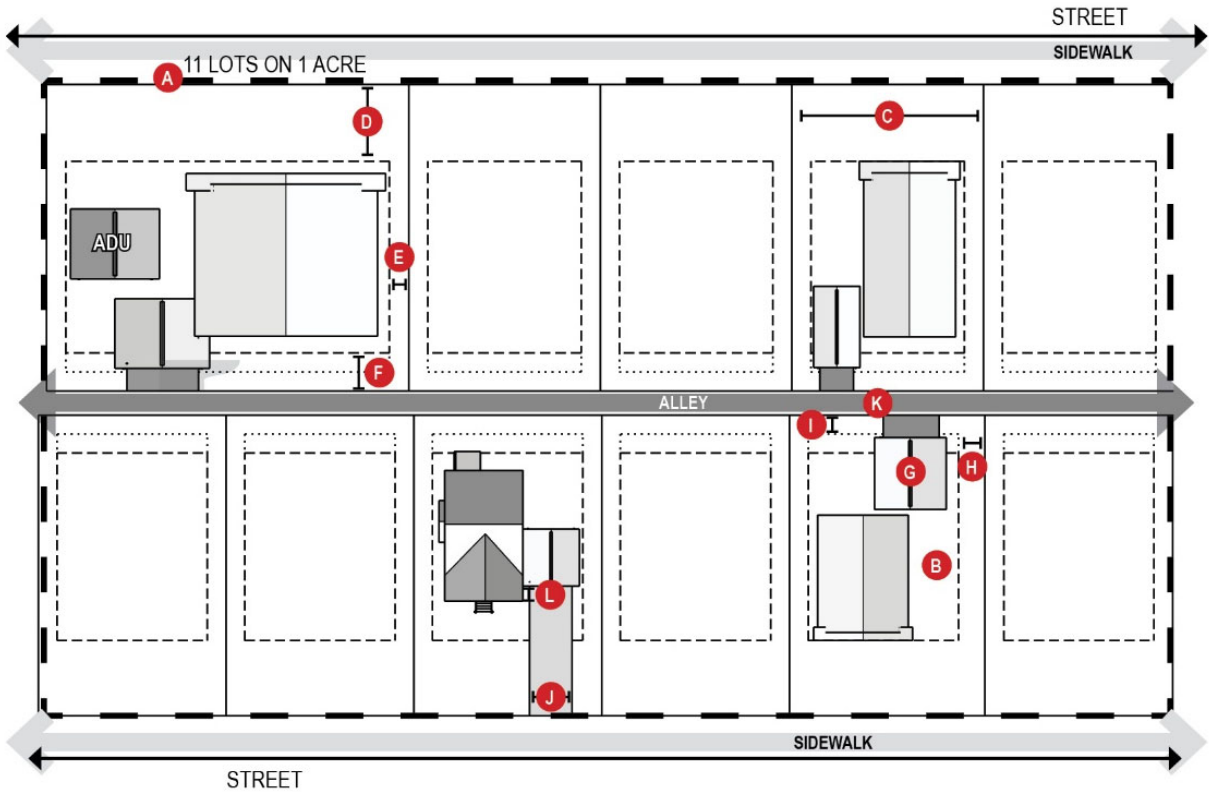
- A. **Purpose of Traditional Neighborhood 2 Zoning District.** The TN-2 Zoning District is intended to provide for compact, pedestrian-oriented mix of residential and neighborhood-serving commercial uses. This District reinforces the existing pattern of small, connected lots, blocks and street and supports 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.

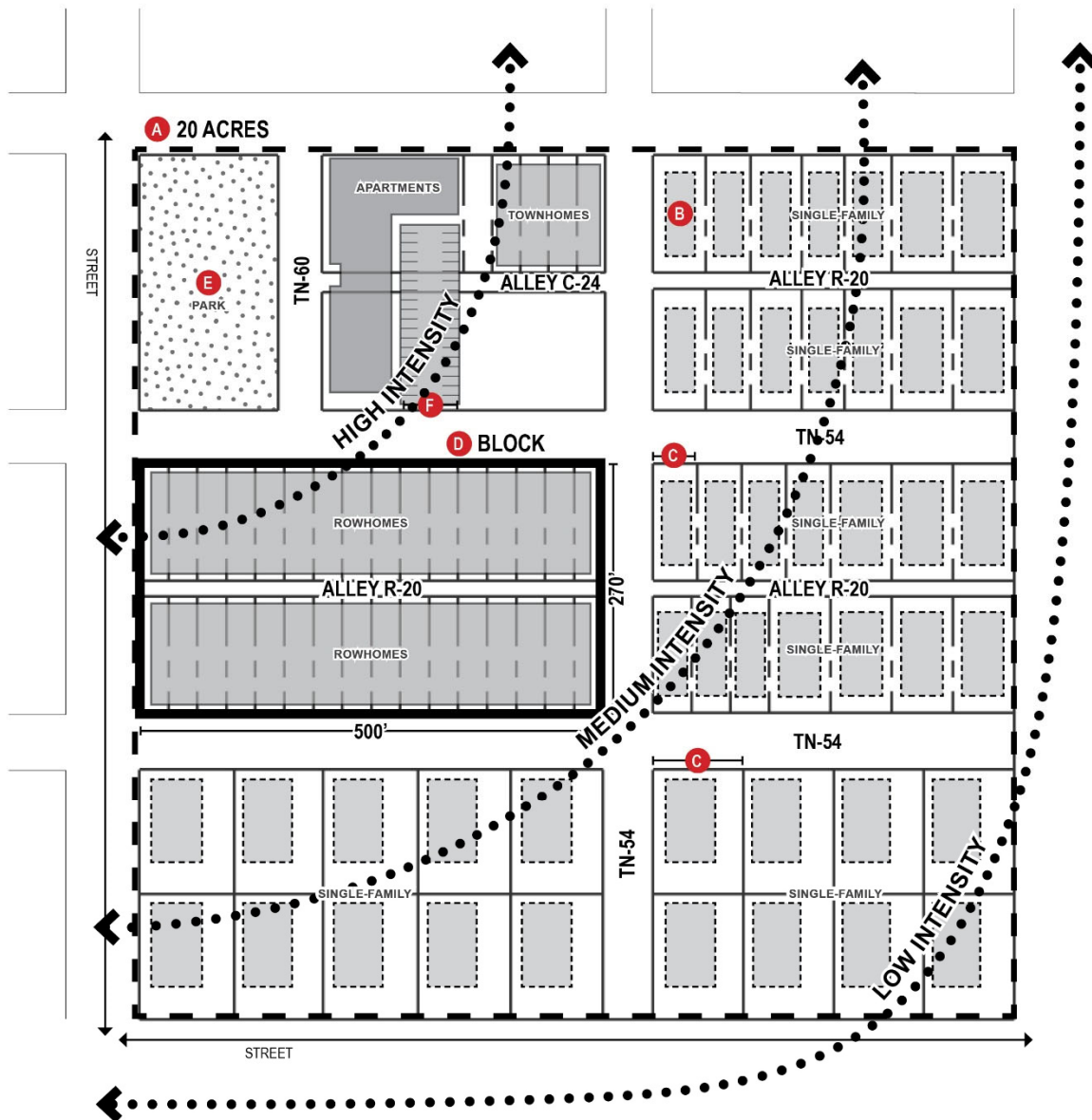
- a. Lots must have minimum and maximum widths according to Table [515-2-10.1]
- b. Each lot must have a primary frontage along a vehicular thoroughfare, except up to 20% of the parcels in a Regulating Plan may front a civic space or pedestrian passage.
- c. Where lots have multiple frontages, one frontage 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

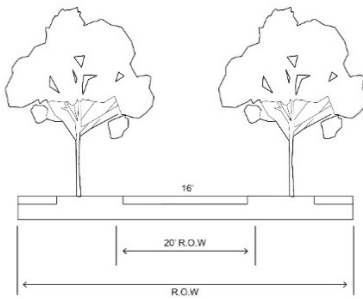


Figure 515-2-10.3. TN-3 Commercial Alley C-24

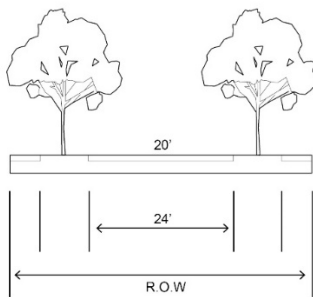


Figure 515-2-10.4. TN-3 Local Street TN-54 Parking on One Side on Two Sides.

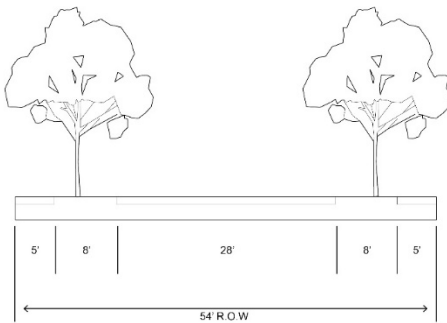


Figure 515-2-10.5. TN-3 Local Street TN-60 Parking

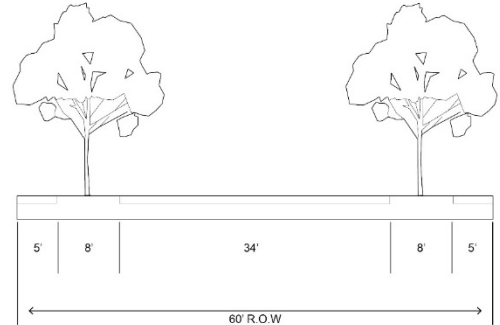
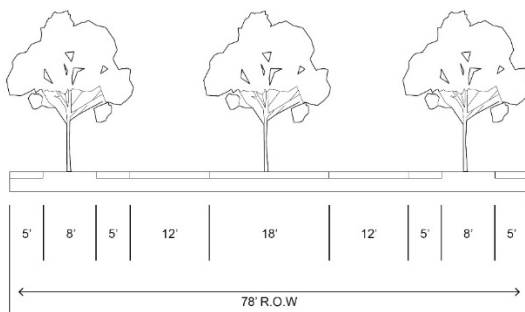


Figure 515-2-10.6. TN-3 Traditional Parkway TP-78 With Dedicated Bike Lane



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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 Public Road 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). • <u>Any permitted main floor residential use shall be a minimum of two (2) stories on any façade abutting a public right-of-way. (Figure 515-2-11.3)</u>
	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

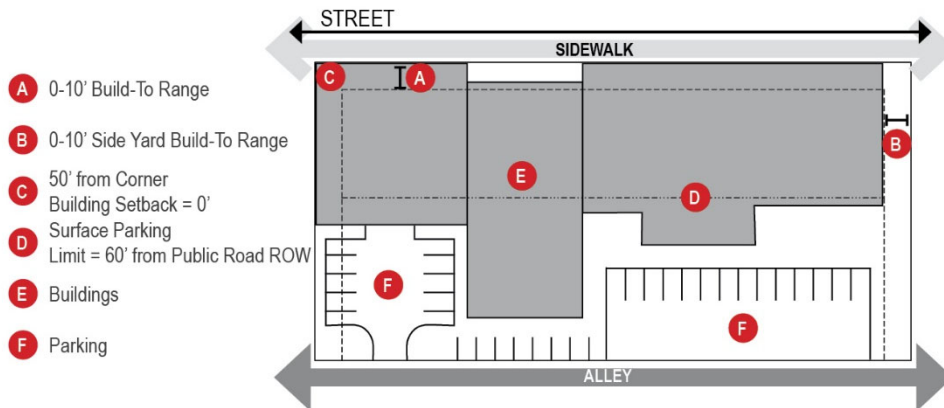


Figure 515-2-11.2. TC District Frontage Overlay

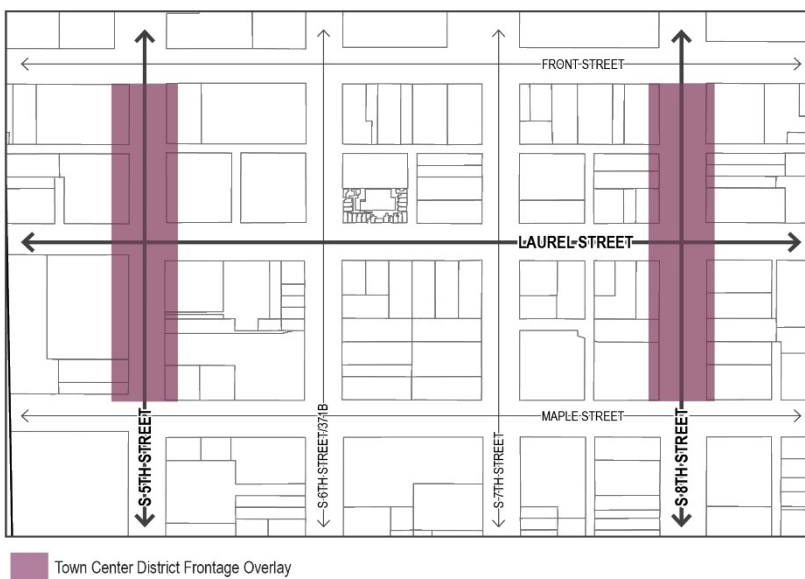


Figure 515-2-11.3. Example of TC Shopfront, Common Entry, Stoop and Two-Story Residential Building Types



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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 <u>Public Road ROW</u>
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, <u>extending 15' from point of intersection.</u>

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Figure 515-2-12.1. MS Density and Lot Dimensional Standards Diagram

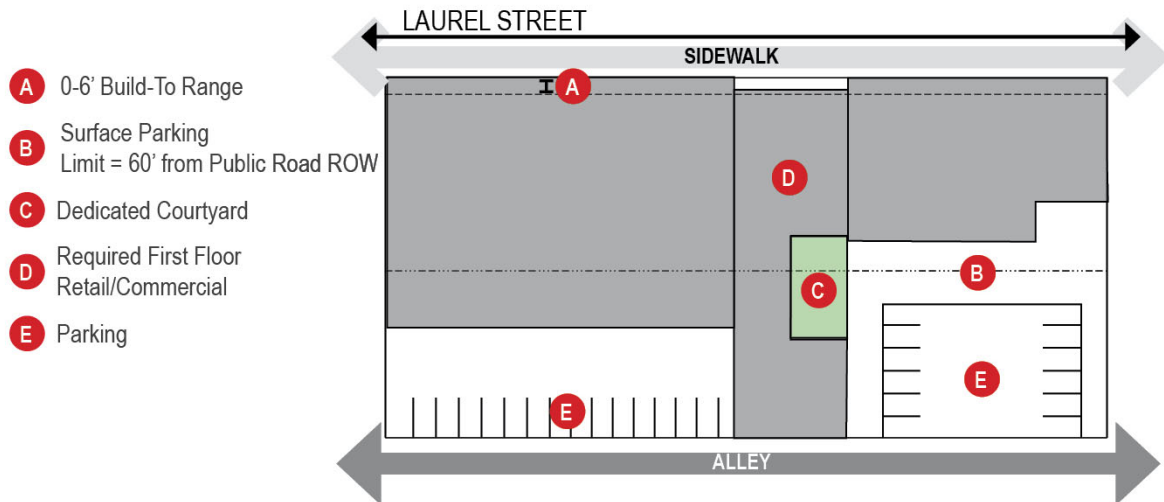
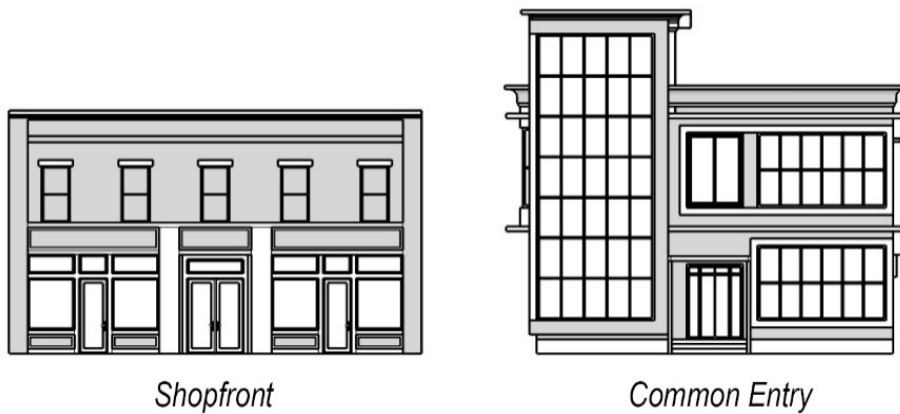


Figure 515-2-12.2. MS Example of Shopfront and Common Entry Building Types



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515-2-13 General Commercial (GC)

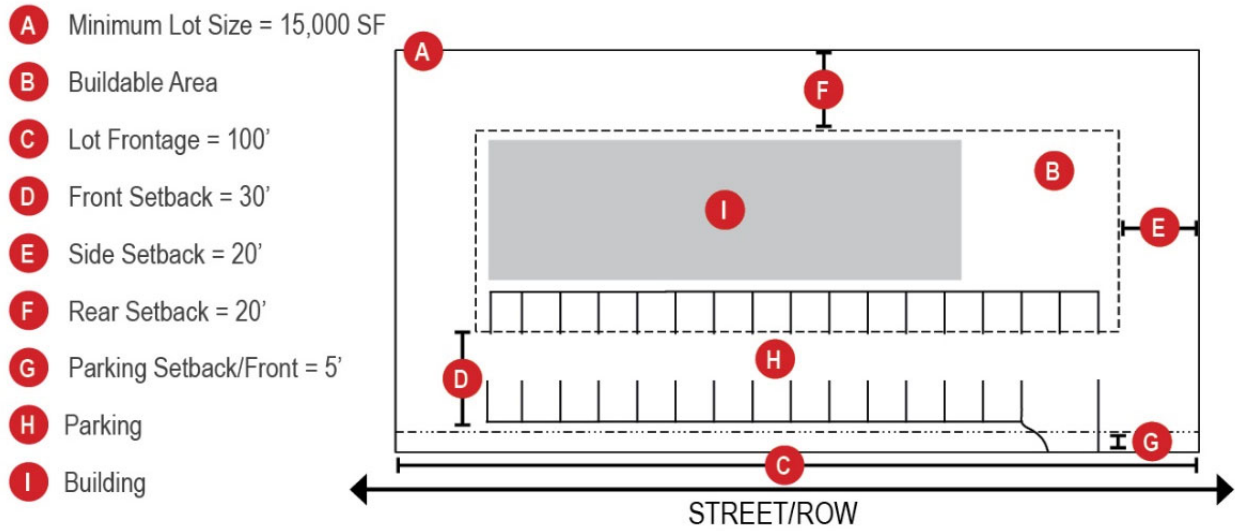
- A. **Purpose of General Commercial Zoning District.** The purpose of the GC District is to allow more intensive commercial uses that require the primary street network for access and circulation.
- B. **Permitted Uses.** See Appendix A: Table of Uses.
- C. **GC Zoning District Dimensional Standards.** 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)

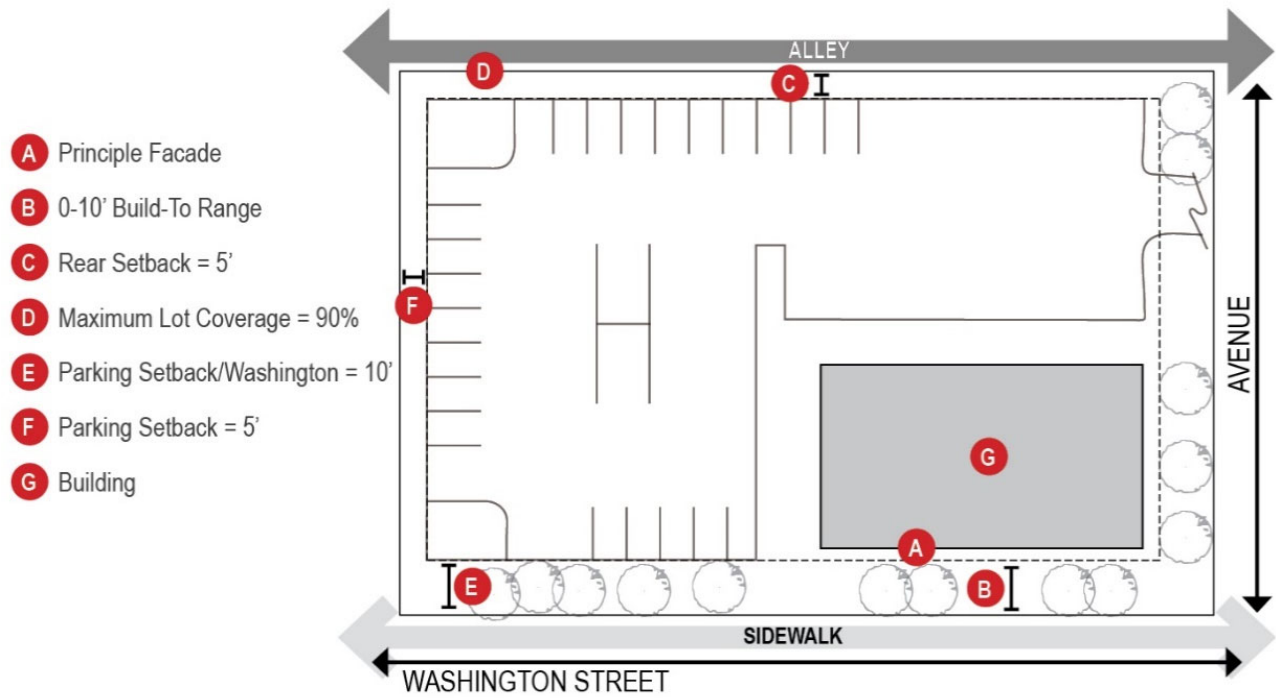
- A. **Purpose of Commercial Corridor Zoning District.** The purpose and intent of the CC District is to provide zoning regulation flexibility to permit development consistent with land use patterns along the Washington Street corridor from the river to 6th Avenue NE that support walkable development 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)

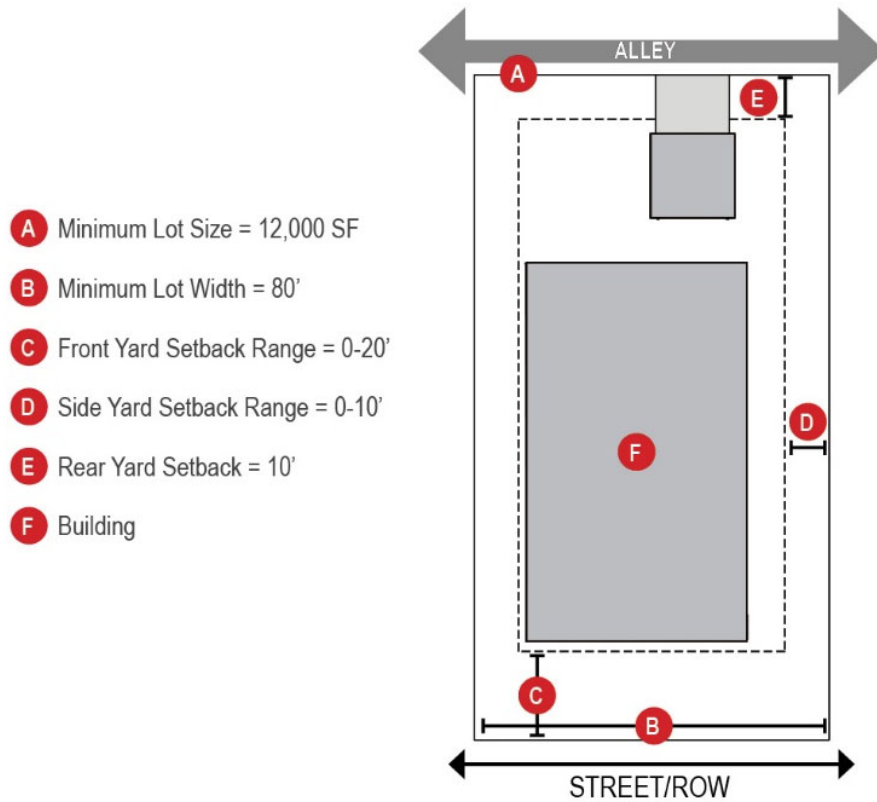
- A. **Purpose of Makers & Employment Zoning District.** The purpose and intent of the ME Zoning District is to provide for the establishment of small start-ups, incubator and craft/maker businesses that may be appropriate in smaller buildings or on smaller parcels. This District may also incorporate 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)	20'
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)

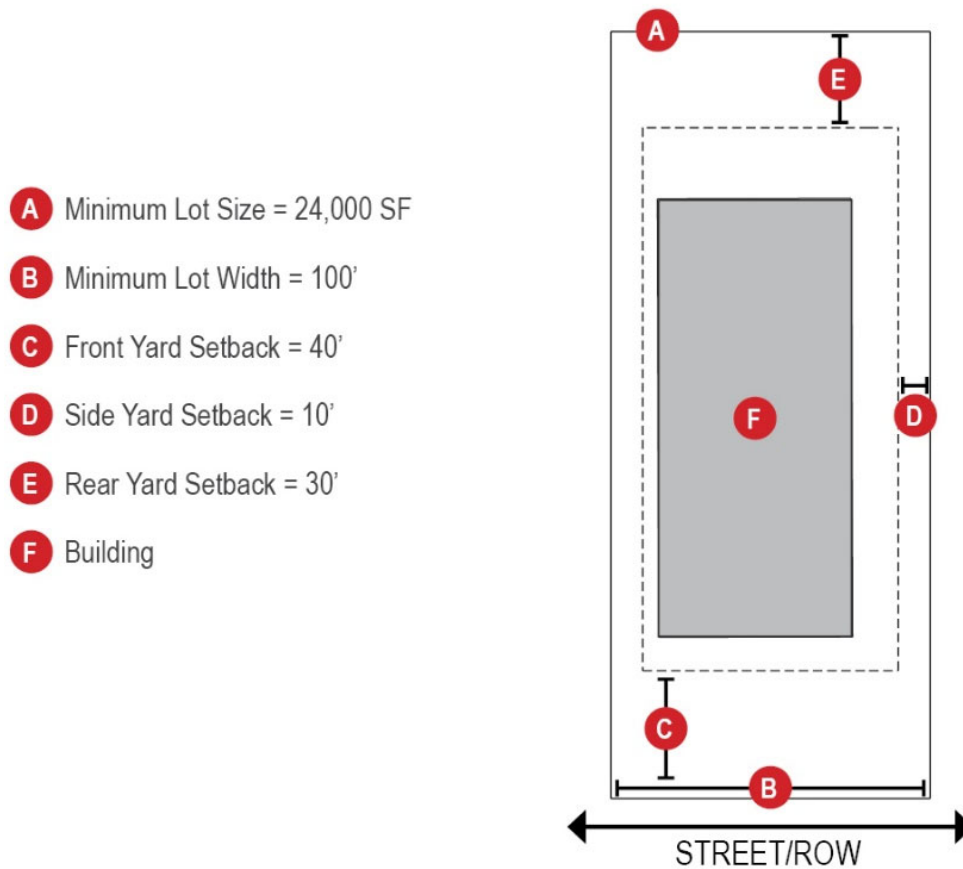
- A. **Purpose of General Industrial Zoning District.** The purpose of the GI Zoning District is to provide for the establishment of heavy industry and manufacturing development and use which because of the nature of the product or character of activity, requires isolation from residential and commercial 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. Any residential use must be accessory to the principal public-semi-public use and must obtain a Conditional Use Permit. Such use may not be separated from the principal use without an amendment to the CUP and may require rezoning. All principal uses must be identified as a public-semi-public use on the 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 Brook Street Industrial Overlay District (BSI-O)

- A. **Purpose of the Brook Street Industrial Overlay District.** The purpose of the BSI-O District is to provide for the continued light industrial use of properties that are located in the City's original industrial park that is now located in an area predominantly developed with residential uses. Activities in the BSI-O must be primarily conducted internal to a structure to protect the health, safety and enjoyment of surrounding residential properties.
- B. **Permitted Uses.** The Base Zoning District of the BSI-O is ME. Appendix A: Table of Uses identifies all established uses within the ME Base Zoning District. Only the uses listed herein or, as may be determined to be similar, are permitted within the BSI-O. The business activities must be conducted internally to a structure, unless the outdoor activity is expressly permitted as an accessory use. Refer to Appendix A: Table of Uses to determine if the use permitted by-right or if a Conditional Use Permit is required:
1. Light Manufacturing
 2. Commercial/retail sales accessory to the principal manufacture, processing or wholesaling of products manufactured on, processed on or wholesaled from the premises.

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- [3. Small Engine and Boat Repair](#)
- [4. Electronics assembly and testing](#)
- [5. Research and Development Laboratories](#)
- [6. Equipment rental \(indoor\)](#)
- [7. Office Business](#)
- [8. Contractor Office](#)
- [9. Places of Worship and Related Buildings](#)
- [10. Government Buildings](#)
- [11. Essential Services](#)
- [12. Outdoor Storage accessory to a principal use with enclosed building](#)

C. Development Standards. Any business or use not established prior to the adoption of this ordinance **July XX, 2022** shall be subject to the following standards:

- [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.](#)

515-2-20 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.
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:

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- 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).
 - 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).

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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.
 - 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.
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- 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.
- 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.

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- 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.

515-2-21 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.
 - 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 515-2-21.1. NPC-PUD Dimensional and Use Standards.

Principal Building		
	Front Yard Setback (minimum)	50'

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	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

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 [JJ].
5. Content classified as "obscene" as defined by Minnesota State Statutes Section [617.241].
6. Flashing or rotating signs.
7. Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.

G. Violations. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall, upon conviction thereof, be guilty of a petty misdemeanor. Persons violating this Section may be fined in addition to other penalties for Ordinance violations allowed by this Ordinance. Any sign violation of this Section may be subject to immediate removal by the City, at the expense of the owner, without notice to the property owner or owner of the sign if different than the property owner. Each day that the violation continues is a separate offense.

1. This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute in the name of the City any appropriate actions or proceedings against a violator.
2. Inspection. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator.
3. The City reserves the right to require the removal at the owner's expense of any sign when the requirements of this Section are not completely followed and adhered to, or if a sign is not properly maintained or falls into a state of disrepair. The City shall not have any obligation or liability to replace any sign when removed by the City.

H. Substitution. The owner of any sign which is otherwise allowed by this sign Ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. Conversion back to commercial copy is permitted as allowed in each Zoning District. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

I. General Regulations.

1. All freestanding and monument signs shall be set back three (3) feet from any property line and outside of the site visibility triangle. No portion of the sign shall extend into the public right-of-way or an easement.
2. Wall signs may extend no more than 24 inches from the building façade and may encroach into the public right-of-way where there is a zero building setback.
3. The installation of electrical signs shall be subject to the State Electrical Code. Electrical service to a freestanding sign shall be underground.
4. No sign shall be attached or be allowed to hang from any building until all necessary wall attachments have been approved by the City Building Official.
5. No signs, guys, stays or attachments shall be erected, placed, or maintained on trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.
6. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the driver and may not interfere with or obscure traffic signs or signals. Lighting may not illuminate any adjacent properties, buildings, or streets.
7. Portable signs which are designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed are permitted within GC, CC, ME and GI Zoning Districts subject to the following:

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- a. A Sign Permit is issued for the sign that shall require a non-refundable fee as set by Ordinance, together with a bond or cash deposit is issued for the sign.
 - b. In the event the sign is not removed within two (2) business days of the permit expiration date, the bond or cash deposit shall be forfeited as a penalty.
 - c. Permits shall be for periods not to exceed 60 consecutive days of each 90 calendar day period for one premises, or a total of 120 days in a calendar year.
 - d. One (1) temporary sign is allowed on the premises at one time.
 - e. Temporary signs permitted by Subsection [D] of this Ordinance shall be exempt from the requirements of this Section.
8. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
 9. A freestanding sign or sign structure constructed so that the faces are not back-to-back, shall not have an angle separating the faces exceeding twenty degrees (20°) unless the total area of both sides added together does not exceed the maximum allowable sign area for that District.
 10. The area within the frame of a sign shall be used to calculate the square footage except that the width of a frame exceeding twelve (12) inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six (6) inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.
 11. The top of a wall sign, including its superstructure, if any, shall be no higher than the top of the roof of the building to which such sign may be attached.
 12. Projecting signs may be allowed in commercial districts provided that:
 - a. There is a minimum of eight (8) feet of clearance under the base of the sign to the ground below.
 - b. The sign does not project more than five (5) feet beyond the wall to which it is mounted, may not project over any vehicular drive aisle or traveled portion of a public or private street and may not project over a public right-of-way except within the TC and MS Zoning Districts.
 - c. The area of the projecting sign is not more than fifty (50) percent of the maximum area allowed for an individual wall sign in the respective zoning district in Subsection [J.9 and J.10] of this Subsection.
 13. Roof signs shall be allowed in commercial and industrial districts provided that:
 - a. The height of the sign shall not exceed the height of the roof.
 - b. The sign design shall be consistent with the building character and integrated into the building architecture.
 14. Signs are not allowed to encroach into or over MnDOT right-of-way.
- J. District Regulations.** In addition to the signs allowed by this Subsection, the following signs shall be allowed within the specific Base Zoning Districts:
1. Non-residential uses within the RL, GL, CN and TN Base Zoning Districts.
 - a. Except for the uses specified in Appendix A: Table of Uses, one (1) sign shall be allowed per parcel provided that:
 - i. The total area of the sign shall not exceed thirty-two (32) square feet.

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- ii. A freestanding sign shall be limited to a maximum height of six (6) feet.
- 2. Signs shall be allowed for a subdivision or multiple family development of five (5) or more lots or dwelling units provided that:
 - a. One (1) sign shall be allowed at each street entrance. Entrances less than one hundred (100) feet apart are not permitted individual entrance signs.
 - b. The area of each sign shall not exceed twenty-four (24) square feet.
 - c. Freestanding signs shall be limited to a maximum height of six (6) feet.
 - d. Illumination of the sign shall be as regulated in [I.6.] of this Subsection.
 - e. For sign(s) requiring regular long-term maintenance, the sign(s) shall be located on common space of sufficient size and area to accommodate said structure. The property owner or association shall be responsible for maintenance of the sign.
 - f. One (1) wall sign up to sixteen (16) square feet is permitted for each multifamily development.
 - g. The area around the sign shall be landscaped in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject approval by the Zoning Administrator.
 - h. The design and construction of area identification signs shall be done with the highest commercial quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Area identification signs are to be aesthetically pleasing when designed and constructed. The sign shall be compatible with nearby structures in the area. Detailed construction plans and a materials list shall be included with each Sign Permit application and shall be subject approval by the Zoning Administrator.
- 3. Additional signs shall be allowed upon approval of a Final Plat for a subdivision having not less than five (5) lots provided that:
 - a. One (1) sign shall be allowed per project or subdivision or one (1) sign for each frontage to a public street, whichever is greater.
 - b. The area of the sign shall not exceed thirty-two (32) square feet.
 - c. Freestanding signs shall be limited to a maximum height of eight (8) feet.
 - d. The sign shall not be displayed for a period to exceed twenty-four (24) months from the date a permit is issued for the sign or until building permits have been issued for eighty-five (85) percent of the lots or dwelling units within the subdivision, whichever is less restrictive.
- 4. Government buildings and structures, public, quasi-public or private recreation buildings, public parks and recreation areas, public and private educational institutions limited to accredited elementary, middle, senior high schools, or colleges and universities, and places of worship shall be allowed the following signs:
 - a. Not more than two (2) wall signs shall be permitted on the front wall. The combined total area of such sign or signs shall not exceed the lesser of fifteen (15) percent of the area of the front face (including doors and windows).
 - b. For each principal building on a lot, there shall not be more than one (1) freestanding monument sign except on a corner lot where two signs, one facing each street, shall be permitted. No such signs shall exceed one hundred (100) square feet in area. Monument signs may not exceed twelve (12) feet in height. The monument sign may include a changeable copy sign as part of the allowable sign area.
- 5. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within the Base Zoning District.
- 6. No more than one (1) changeable copy sign per parcel.

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7. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
8. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
 - a. Temporary signage is subject to the provisions of Subsection [D and I] of this Ordinance.
9. Within the TN-2 District the following additional regulations shall apply:
 - a. All residential use regulations in accordance with Appendix A: Table of Uses.
 - i. Each parcel shall be allowed one (1) wall sign up to two (2) square feet in area and one (1) freestanding sign up to 12 square feet in area.
 - ii. The height of a freestanding sign shall not exceed six (6) feet.
10. Within the [CC, GC, MS, TC, ME, GI] Districts the following additional regulations shall apply:
 - a. The total area of building signs displayed on a parcel shall not exceed 15 percent of the building façade on which the sign is to be located fronting not more than two (2) public streets.
 - b. A 100 square foot sign up to 25 feet tall is permitted for a parcel with street frontage of 100 feet or less.
 - i. In CC and GC Zoning Districts, one (1) square foot of sign area may be added to the permitted 100 square foot sign area for each one (1) foot of street frontage over 100 feet. A sign up to 300 square feet is permitted.
 - ii. Parcels in CC and GC Zoning Districts with more than 300 feet of street frontage may have one (1) additional sign for each additional 300 feet of street frontage. Signs shall be located at least 300 feet apart.
 - c. Sign area for parcels permitted more than one (1) sign is equal to the total feet of street frontage. If more than one (1) sign is used, the total sign area allowed shall be distributed between permitted signs.
 - d. Each sign shall be 300 feet apart and each sign may not exceed 300 square feet in area.
 - e. Signs shall be located on the street frontage for which its sign area is determined.
11. Wall, Canopy and Marquee Signs. Wall, canopy, or marquee signs may occupy up to fifteen (15) percent of a building façade fronting a public street or alley. Up to an additional 16 square feet may be used for awning signs.
12. Awning or Canopy Signs. Letters may be painted or otherwise affixed to any permissible awning or canopy as follows:
 - a. One sign per canopy fascia fronting onto a public street.
 - b. Be within the physical dimensions of the awnings or canopy fascia.
13. Accessory signs to gas sales in conjunction with automobile service stations or convenience stores are permitted provided that:
 - a. *Gasoline and Price Sign.* One (1) sign (single or double faced) per frontage on a public street, suitable for apprising persons of the total sign price per gallon. The area of such price sign shall not exceed 16 square feet on either side. Each such sign shall be affixed to the standard of a ground sign or light fixture and shall state the total price. No sign posting an incomplete price or less than the total sales price is permitted.
 - b. Signs denoting operating instructions associated with self-service gas facilities including gas pump, air supply and car washes are exempt from the maximum sign area standards of this Subsection.
14. Changeable Copy Signage.
 - a. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within a respective Zoning District.

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- b. No more than one (1) changeable copy sign per parcel.
 - c. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
 - d. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
15. In addition to the freestanding sign allowed by this Subsection, convenience food uses with drive through facilities may display additional signs, provided that:
- a. Not more than one (1) sign is allowed.
 - b. The sign shall be single sided with an area not to exceed fifty (50) square feet.
 - c. The height of the sign shall not exceed six (6) feet including its base or pole measured from grade to the top of the structure.
 - d. The sign shall not encroach into any principal building setback and shall be located directly adjacent to the drive through aisle and oriented in such a manner so that the sign provides information to the drive through patrons only and does not impair site visibility or obstruct circulation.
16. Multiple Occupancy Commercial and Industrial Buildings including Business/Commercial Centers:
- a. Except as provided for in this Subsection, individual tenants of a multiple occupancy building within a commercial or industrial zoning district may display separate wall, canopy or marquee signs when a tenant's business has an exclusive exterior entrance subject to the following requirements:
 - i. The number of wall signs shall be limited to one (1) per tenant space, except one (1) sign per exterior wall may be displayed for the tenant of a corner suite or a suite that extends through a building this having two (2) exterior walls facing a public right-of-way.
 - ii. The total area of all wall signs shall not exceed fifteen (15) percent of the tenant bay.
 - iii. Signs shall be located on the exterior wall of the tenant space to which the Sign Permit is issued but are not required to face a public street.
 - b. In addition to wall and free-standing signs, canopy and marquee signs are allowed provided that:
 - i. Occupy up to an additional sixteen (16) square feet on a building façade fronting a public street or alley.
 - ii. Letters are painted or otherwise affixed to any permissible awning or canopy as follows:
 - a. One (1) sign per canopy fascia fronting onto a street.
 - b. Be within the physical dimensions of the awnings or canopy fascia.
 - c. Business/Commercial Centers may erect one (1) free standing sign per street frontage, not to exceed two (2) freestanding signs per site (single or double faced).
 - d. Changeable copy signs are allowed in accordance with this Subsection.

K. Non-Conforming Signs. A nonconforming sign lawfully existing upon the effective date of this Section shall be regulated in accordance with this Section.

515-3-36 Specialty Food Shop

- A. Specialty Food Shops with, or without, a drive-up window and/or with or without outdoor seating must comply with the following minimum standards:
- 1. Coffee beans cannot be roasted on site.
 - 2. Adequate screening from abutting residential uses and landscaping must be provided.

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3. Adequate off-street parking and access must be provided on the site to serve the business. Off-street parking may be provided on lots directly abutting or directly across a public street or alley to the principal use. Off-street parking must be adequately screened and landscaped from surrounding and abutting residential uses.
4. Adequate off-street loading and service entrances must be provided.

515-3-37 Storage, Utilization or Manufacture of Materials that Could Decompose by Detonation

- A. Any storage, utilization of manufacturing of materials that could decompose by detonation must comply with the following minimum standards:
1. The use must demonstrate compliance with all applicable Minnesota Pollution Control Agency Requirements are satisfactorily met.
 2. Storage areas must be landscaped, fenced and screened from the view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
 3. Vehicular access points shall create minimum conflict with through traffic movement and shall be subject to approval of the City Engineer.
 4. Provisions must be made to control and minimize noise, air and water pollution.

515-3-38 Temporary/Seasonal Outdoor Sales and Promotional Events

- A. Any temporary/seasonal outdoor sales and/or promotional events must comply with the following minimum standards:
1. Such activity must be targeted toward the general public which may include, but is not limited to, grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
 2. The maximum term of the event may not exceed 14 consecutive days, with a maximum of four (4) permits per calendar year for each use. Consecutive permits may be issued.
 3. No portion of the use shall take place within any public right-of-way.
 4. Parking and display areas associated with the use shall not distract or interfere with existing business operations or traffic circulation patterns.
 5. Display areas and parking spaces shall use those parking lot spaces that are in excess of the minimum required parking for the primary use of that property.
 6. The site shall be kept in a neat and orderly manner and display of items shall be as compact as possible so as to not interfere with existing business, parking or driveway operations.
 7. Sales products, trailers, temporary stands, etc. shall be located on an asphalt or concrete surface.
 8. Temporary outdoor seasonal sales uses may have one (1) on-site temporary sign not to exceed 24 square feet in area and not more than six (6) feet in height.
 9. A daily cleanup program must be reviewed and approved as part of the Permit process.

515-3-39 Transient Food Unit

- A. **Established Boundaries and Permitted Hours of Operation.** Transient Food Units are permitted to operate on any Non-Residential Zoning District as identified on Appendix A Table of Uses . Transient Food units are also permitted to operate on property owned by Central Lakes College, the Franklin Arts Center, and Independent School District 181 regardless of Base Zoning District.
1. Transient food unit hours of operation shall be limited to 7:00 am to 11:00 pm.

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- B. Relationship to other Applicable Regulations.** Property located within a PUD Overlay District shall be subject to the provisions of the Base Zoning District.
- C. Permitted Uses.** Transient food units including trucks, trailers, wagons, carts, seasonal temporary food stands, etc. are allowed on public and private property subject to the following:
1. Only food and non-alcoholic beverages can be sold.
 2. At least one (1) trash receptacle with a tight fitting lid shall be provided.
 3. Operators must clean around their unit at the end of each day.
 4. Operator cannot call attention to themselves by crying out, blowing a horn, ringing a bell, and playing music or other noise discernable beyond the unit.
 5. Units must be kept in good repair and order and have a neat appearance.
 6. Electrical cords and hookups to public utilities are not permitted.
 7. Liquids from a food unit cannot be drained onto public property.
 8. Generators must be self-contained and fully screened from view and not exceed 70 dbs.
 9. Exterior lighting that will call attention to the setup is not permitted.
 10. Follow applicable Department of Health regulations.
 11. Copies of all required state licenses and insurance coverage.
 12. One "A" frame sign not exceeding 12 square feet per side is permitted during operation.
 13. Property owner written approval is required.
 14. Units cannot be left unattended nor remain at an authorized operating location outside allowed hours of operation.
 15. Sales cannot be made to individuals parked or stopped in a public street or alley. Sales to customers on a sidewalk are not allowed.
 16. Units cannot locate within 300 feet from the property perimeter of any festival (including the Crow Wing County Fairgrounds), sporting event and civic event unless a license is issued to be a part of the festival or event.
 17. Proof of liability insurance is provided in accordance with City of Brainerd requirements.
 18. Transient food units are permitted to operate during festivals and community events provided it is approved by City of Brainerd as part of a festival and community events permit.
 19. Sales are permitted in a City park when approved by City of Brainerd Parks and Recreation Board.
 20. Maximum number of units per property:
 - a. Two (2) food trucks on lots of one-half acre or less.
 - b. Three (3) food trucks on lots between one-half acre and 1 acre.
 - c. Four (4) food trucks on lots greater than 1 acre.
 21. A primary use must be operating on the property in order for food unit operations to be allowed.

515-3-40 Truck Terminals

- A.** Any truck terminal must comply with the following minimum standards:
1. Vehicular access points must be located along arterial streets, and the minimum number of access points needed for safe ingress/egress shall be provided. The number of access point must be designed and

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constructed to create a minimum of conflict with through traffic movement. Such access locations shall be subject to review and approval by the City Engineer.

2. A drainage system subject to the approval of the City Engineer shall be installed.
3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
4. Provisions must be made to control and minimize noise, air and water pollution.

515-3-41 Warming Shelters

A. Any Warming Shelter must comply with the following minimum standards:

1. Operation may not exceed 16 continuous hours.
2. Facility occupancy shall not exceed 30 beds or total occupancy of facility as set by the Fire Marshall, whichever is less.
3. Facility shall be staffed during all hours of operation.
4. 24-hour contact information shall be provided to the City of Brainerd Police Department and Crow Wing County Community Services Department.
5. Except for bicycle racks, outdoor storage of equipment, furniture, personal items, or other such possessions of those using the facility is not permitted.
6. Facility shall meet all applicable building, safety, fire and health code requirements.

515-3-42 Wireless Antennas and Towers

A. **Purpose and Intent.** The purpose of this Section is to establish predictable and balanced regulations for the location and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the City of Brainerd while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of the Section are intended to maximize the use of existing towers, structures, and buildings to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community.

B. **Definitions.** For the purposes of this article, the following definitions apply:

Abandonment means cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this article.

Accessory equipment means any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Antenna means communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Base station means the equipment and non-tower supporting structure at a specific site authorized to communicate between user equipment and a communications network, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

Close mount shall mean and refer to mounting of the antenna array and or any part of the wireless facility with mounting techniques where the components do not protrude from the face of the structure by more than 18 inches.

Co-location shall mean and refer to the mounting or installation of transmission equipment for multiple

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telecommunication providers on one eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Concealed/ stealth wireless facility means any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

Eligible facilities request means a request for modification of an existing wireless tower or base station that involves co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment but does not include a substantial modification.

Engineered fall zone means the area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Equipment compound means an area surrounding or near the base of a wireless support structure within which are located wireless facilities.

Existing structure means an existing wireless support structure, that is capable of supporting the attachment of wireless facilities. The term includes, but is not limited to, electrical transmission towers, buildings, and water towers.

FCC shall mean and refer to the Federal Communications Commission or its successor.

Lattice type towers refers to the type of tower that has three or more legs that are spread at the bottom to transfer the lateral loads of the tower to the ground without the use of guy wires. The legs are connected to each other through a series of diagonal cross members that create a lattice work of steel.

Monopole means a single, freestanding pole-type structure supporting one or more antennas. For the purposes of this article, a monopole is not a tower or a utility pole.

Ordinary maintenance means ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color, and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include adding additional antennas or transmitter/receivers, nor making substantial modifications to existing wireless facilities.

Replacement pole means a pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

Roof top or exterior façade mounted facilities means the placement of the whole or part of a wireless facility on an existing building roof or exterior face.

Self-supporting tower means typically a tower that is supported without the use of guy wires. Includes lattice and monopole type towers.

Site means for towers, monopoles, or concealment type structures, other than structures in public right-of-way, referring to the current boundaries of the leased or owned property surrounding the tower, monopole, any access, or utility easements currently related to the site, and, for other eligible support structures, shall mean

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and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

Substantial modification means the mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure or existing wireless facilities as defined by the FCC.

Tower means a lattice-type structure, guyed or freestanding, that supports one or more antennas.

Utility pole means a structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Wireless facility or *wireless facilities* means the set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

Wireless support structure means a freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility or light poles.

Wireless transmission equipment means any equipment that facilitates transmission for any authorize wireless communication service including backup power.

- C. **General Standards.** The following standards shall apply to all personal wireless service telephone, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antenna.
1. All obsolete and unused antennas and towers shall be removed within twelve (12) months of cessation of operation at the site by the antenna or tower owner, unless an exemption is granted by the Zoning Administrator. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associate facilities when they are abandoned, unused or become hazardous shall be submitted to the City.
 2. All antennas and towers shall be in compliance with all State Building and Electrical Code requirements and as applicable shall require related permits. Applications to erect new antennas and/or towers shall be accompanied by any required Federal, State, or local agency licenses.
 3. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and as may be necessary, as determined by the City Engineer, shall be verified and approved by a professional engineer.
 4. When applicable, written authorization for antenna and/or tower erection shall be provided by the property owner.
 5. No message shall be affixed to the antenna and/or tower structure.
 6. Antennas and/or towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
 7. Towers shall be painted a non-contrasting color consistent with the surrounding area such as blue, gray, brown, or silver or have a galvanized finish to reduce visual impact, unless otherwise required by a governmental agency.
 8. All antennas and towers shall be reasonably posted and secured to protect against trespass, including appropriate measures to prevent unauthorized persons from climbing any tower.

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9. Towers shall comply with all applicable Federal Aviation Administration (FAA) regulations.
10. Amateur radio towers shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
11. Except as may be applicable in a case where a Conditional Use Permit is required, antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service shall be exempt from the following: Subsections [C.10, E and G].

D. Applicability and Exemptions.

1. All legally permitted wireless telecommunications facilities constructed as permitted uses, existing on or before _____ 2017, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section. Any repair, maintenance or replacement of a wireless telecommunication facility that does substantially change the facility does not require an application for a Conditional Use Permit, but does require an Administrative Permit.
2. The following shall be exempt from the requirements of this Section:
 - a. Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
 - b. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.
 - c. Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11A, B, G (Wi-Fi) and Bluetooth) where the facility does not require a new wireless support structure.

E. Location Standards.

1. Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, a. being the highest priority and i. being the lowest priority:
 - a. On existing towers, monopoles, buildings or structures on City owned property, if permitted.
 - b. On existing towers, monopoles, buildings or other structures on other property in the City.
 - c. A new concealment/stealth wireless support structure on City owned property.
 - d. A new wireless support structure on City owned property.
 - e. A new concealment/stealth wireless support structure on property in any Zoning District.
 - f. A new wireless support structure on property in the Makers + Employment (ME) or General Industrial (GI) Zoning Districts.
 - g. A new wireless support structure on property in the Commercial Corridor (CC), Town Center (TC) or General Commercial (GC) Zoning Districts.
 - h. A new wireless support structure on property in the Main Street (MS) or Traditional Neighborhood 2 (TN-2) Zoning District.
 - i. A new wireless support structure on property in the Rural Living, Garden Living, Contemporary Neighborhood or Traditional Neighborhood 2 (TN-1) Zoning Districts.
2. If the location proposed is not the highest priority location listed in A. above, the location proposed shall not be approved unless the applicant establishes that there are no sites available in a higher priority

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location that meet the requirements of this Section and the technical requirements for the proposed wireless telecommunications facility. Economic considerations shall not be a factor in determining whether a higher priority location is available.

3. An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial practical difficulty.
4. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
5. The City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

F. Certification, Inspection and Maintenance.

1. All towers, antenna support structures, and related equipment or structures shall be kept and maintained in good condition, order, and repair so as not to menace or endanger the life or property of any person.
2. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and Federal and State law.
3. The City shall have authority to enter onto the property upon which a tower is located to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by the City's Code, Federal and State law. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the owner. All expenses related to such inspecting by the City shall be borne by the owner.

G. Co-Location Design Requirement. An application for a new tower 50 feet in height or less shall not be approved unless the applicant demonstrates that the antennas cannot be constructed on an existing building or structure within a one half (1/2) mile radius of a proposed tower site.

1. Any tower more than 50 feet in height shall not be approved unless the applicant demonstrates that the antennas cannot be constructed on an existing tower, building, or structure within a two (2) mile radius of the proposed tower site due to one (1) or more of the following reasons:
2. The planned equipment would exceed the structural capacity of the existing tower, building, or structure as documented by a qualified and licensed professional engineer, and the existing tower, building or structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost or the owner of the structure or building refuses to agree to the necessary reinforcement or modifications.
3. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer and interference cannot be prevented at a reasonable cost.
4. Other unforeseen reasons that make it not feasible to locate the antennas upon an existing or approved tower or structure.
5. Existing or approved towers, buildings, or other structures do not exist in the search area or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs of the users.
6. The applicant shall demonstrate that compliance with subparagraphs 1. through 5. above was attempted, but an agreement could not be reached.

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H. **Accessory Antennas.** The following standards shall apply to all accessory antennas including radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers.

1. Accessory antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.
2. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of one (1) foot from all lot lines.
3. Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of 15 feet above the normal height restriction for the affected Base Zoning District, except support structures and antennas used in the amateur radio service may extend a maximum of two (2) times the normal height restriction for the affected zoning district.

I. **New Tower Design Requirements.**

1. All new towers in excess of 120 feet shall be structurally designed to accommodate at least 3 additional antenna arrays.
2. All new towers between 80 feet to 120 feet shall be structurally designed to accommodate at least 2 additional antenna arrays.
3. All new towers between 40 feet to 79 feet shall be structurally designed to accommodate 1 additional antenna array.
4. Each future antenna array shall be of sufficient design to accommodate an antenna array equal to those of a typical fully developed wireless carrier site and at least equal to the size of array the applicant is installing. Future arrays should be planned to be located as close to the applicant's antenna as possible without causing interference.
5. Each new tower shall be designed to extend an additional 20 feet in height but not exceeding the height limitations of Section [J]. Design shall include a foundation sufficient in size to accommodate the additional height and weight and a mechanical connection to fasten the extra length of tower structure. This extension can be utilized to plan for the addition one (1) of the future antenna arrays required in Subsection [G] above.
6. These co-location design requirements may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially not practical or would compromise the stealth characteristics of the tower structure.

J. **New Towers.**

1. New guyed towers are prohibited in All Zoning Districts.
2. General Industrial Zoning District.
 - a. All self-supporting and concealment/stealth type towers are allowed as a permitted use.
 - b. Maximum build height of 179 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone plus 20' or height of the tower plus 20' if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the zoning district within which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require Zoning Approval and comply with the following standards:

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- i. Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
3. General Business, Commercial Corridor, and Town Center Zoning Districts.
- a. Close mount monopoles or concealment/stealth types of towers are allowed with a Conditional Use Permit.
 - b. Maximum build height of 50 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone plus 20 feet or height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the zoning district in which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require Zoning Approval and comply with the following standards:
 - i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
4. Rural Living Districts.
- a. Monopoles and concealment/stealth type of towers are allowed with a Conditional Use Permit.
 - b. Maximum build height of 179 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone or height of tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the Base Zoning District in which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require an Administrative Permit and must comply with the following standards:
 - i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
 - g. Minimum size of parent property for a new wireless support structure to be located in is 10 acres.

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5. Residential Zoning Districts.

- a. Eligible properties to build new wireless support structures are restricted to institutional and public uses within the Residential Zoning Districts.
- b. Concealment/stealth types of towers are allowed with a Conditional Use Permit.
- c. Maximum height of the tower is 40 feet.
- d. Tower Setback shall be at least the distance of the engineered fall zone plus 20 feet or the height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
- e. Any accessory structure associated with these structures shall be located to comply with the applicable minimum setback requirements for the zoning district in which it is located.

K. New Antennae.

1. New antennae as a permitted secondary use shall require an Administrative Permit and shall comply with the following standards:
 - a. The applicant shall demonstrate to the satisfaction of the City that location of the antennas as proposed is necessary to provide adequate portable personal wireless service telephone coverage and capacity to areas which cannot be adequately served by locating the antennas on an existing tower or support structure.
 - b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:
 - i. Towers with a maximum capacity to support two (2) antennas shall not exceed one 140 feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed 160 feet in height.
 - ii. The setback of the tower from the nearest property line is not less than the height of the antenna. Exceptions to such setback may be granted in such cases when a qualified structural engineer specifies in writing that any failure of the pole will occur within a lesser distance under all foreseeable circumstances. The setback shall not be reduced in cases where the subject site abuts a Residential Zoning District. The setback requirements shall not be reduced below the minimum accessory building setback requirements of the Base Zoning District or the failure area of the tower, whichever is greater.
 - iii. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - iv. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.
 - c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - d. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.

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L. Temporary Mobile Towers.

1. Personal wireless service antennas located upon a temporary mobile tower as a permitted secondary use may be used on an interim basis until a permanent site is constructed shall require Zoning Approval and shall comply with the following standards:
 - a. Temporary mobile towers are exempt from collocation and permanent tower structure design standards.
 - b. The termination date of the permit shall not exceed 120 days. Temporary mobile towers located on a site longer than 120 days shall require the processing of an Interim Use Permit.
 - c. Guyed towers are prohibited.
 - d. Mobile units shall have a minimum tower design wind load of 80 miles per hour, or be set back from all structures a distance equal to the height of the tower.
 - e. All towers shall be protected against unauthorized climbing.
 - f. The height of the tower shall not exceed 100 feet.

M. Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas.

1. Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:
 - a. Such antenna shall be considered an allowed Conditional Use within the General Industrial Zoning District.
 - b. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
 - c. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure and other equipment, as well as no climb security measures shall be provided on the tower or structure.

515-4 GENERAL BUILDING, DEVELOPMENT AND DESIGN STANDARDS.

515-4-1 General Building Design Provisions applicable to all Zoning Districts.

- A. **Purpose and Intent.** This Section identifies general building design size requirements and exceptions to general height requirements applicable within each Base Zoning District.
- B. **Dwelling Unit Restriction.** No cellar, garage, tent, travel trailer, motor home, fish house, shall at any time be used as a dwelling unit.
1. An accessory building or basement may be used for as an Accessory Dwelling Unit (ADU) provided all of the lot requirements and dimensional standards of the Base Zoning District are met and the ADU complies with the Accessory Building Standards established in Section [515-4-6].

515-4-2 Building Design Standards.

A. Single-Family Detached Residential Structure Standards.

1. All single-family detached dwellings in the Rural Living, Garden Living, Contemporary Neighborhood and Traditional Neighborhood Base Zoning Districts shall meet the following design criteria:
 - a. The width of the principal residential structure shall comprise the following:
 - i. If the lot frontage is less than 75-feet, a minimum of 30% of the primary façade facing the road right-of-way must be principal structure.
 - ii. If the lot frontage is greater than 75-feet, a minimum of 40% of the primary façade facing the road right-of-way must be principal structure.
 - iii. Such width requirement shall be in addition to the minimum area per dwelling requirements established within this Ordinance.
 - b. Principal Structures must be designed to be consistent with the predominant character of the existing residential block front. The block front shall consist of all residential properties along both sides of the public or private right-of-way on which the development fronts. The block front shall be measured from intersection to intersection, to the road end, or two hundred (200) feet in either direction from the development site, whichever is nearest.
 - c. Building orientation on lots shall match the predominant orientation of other buildings along the block front.
 - d. Roofs on proposed residential structures shall be similar in slope and style to existing development and shall incorporate any or all of the following features, insofar as such features are compatible with existing development on the block front:
 - i. Dormers;
 - ii. Gabled or hipped roofs;
 - iii. Pitched roofs;
 - iv. Parapets or cornices.
 - v. Unless it is the predominant existing style on the block front, flat roofs shall not be allowed.
 - e. The exterior of the principal structure must be finished with materials that are typical of single-family construction. All edges, fasteners, and other structural elements must be finished and/or covered. Acceptable building materials include:
 - i. Hardie-board, LP, or other similar solid composite siding.
 - ii. Wood lap siding and wood shakes.

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- iii. Vinyl or aluminum siding.
- iv. Stone and stone veneer.
- v. Brick or other masonry with finished face.
- vi. Other materials may be approved by the Zoning Administrator.
- f. Horizontal facades longer than twenty-five (25) feet shall be treated to reduce buildings mass and visual bulk using at least one of the following techniques:
 - i. Bays or recesses (minimum depth of eighteen (18) inches);
 - ii. Window patterns;
 - iii. Contrasting materials or colors;
 - iv. Upper story setbacks;
 - v. Balconies.
- 2. All buildings shall be built in conformance with the State Building Code as adopted in the State of Minnesota.
- 3. Dwellings constructed after the effective date of this Ordinance shall have a minimum finished habitable floor area of 500 square feet.
- 4. All new single-family detached dwellings shall have a minimum of one (1) enclosed garage which may be either detached or attached to the principal structure.
 - a. The garage shall be considered an accessory building and must comply with the standards and regulations established within the Base Zoning District.

B. Attached Single-Family Residential Structures (duplex, triplex, fourplex).

- 1. The minimum width of the principal structure of an attached single-family dwelling unit shall be fifteen (15) feet.
- 2. Attached single-family dwelling units shall have a minimum finished habitable floor area of five hundred (500) square feet.
- 3. Exceptions to minimum width or size may be approved if the structure includes front porches or decks or other additions that provide additional living space for the unit.
- 4. Any conversion of an existing single-family detached residential structure into a duplex, triplex or fourplex shall meet the lot and dimensional requirements of the Base Zoning District for the total number of units. Such conversion shall also comply with the following standards:
 - a. All conversions shall be subject to a Sketch Plan review, which shall be reviewed and approved by the Zoning Administrator. If the proposed conversion does not comply with any standards of the Base Zoning District the conversion shall be denied.
 - b. Any conversion must comply with the Minnesota State Building Code.
 - c. All parking standards and requirements as established in this Ordinance must be met for the resulting number of units.
- 5. Building Materials. Attached single-family dwelling units shall be designed to create visual interest through a variety of materials, colors, textures, installation direction or other characteristics that create articulation either between units or floors. The exterior of the principal structure must be finished with materials that are typical of single-family construction. All edges, fasteners, and other structural elements must be finished and/or covered.
- 6. Garages.

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- a. Each dwelling unit shall include, at a minimum, a one (1) enclosed garage stall, that shall have a minimum dimension of 12 feet by 20 feet.
 - b. *Dwellings Units without basements.* Each dwelling unit shall include at a minimum, a one (1) stall 16' x 20' foot garage.
7. Utilities.
- a. Separate public utility services including water and sanitary service shall be provided to each dwelling unit.
 - b. Private utilities including phone, gas, internet or other services shall be provided to each dwelling unit and management or maintenance responsibilities established within the homeowner's association.
8. Homeowners Association. A homeowners' association shall be established for all owner-occupied attached single-family developments with two or more units and townhome developments. The homeowners' association documents and covenants shall be subject to review and approval of the City Attorney. The homeowners' association shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing, and regular maintenance of private driveways and other areas owned in common when there is more than two (2) individual property owner having interest in the development and its common areas.
9. Building elevations and floor plans shall be submitted with any land use application. The plans shall clearly identify exterior building materials, colors and include a floorplan of all floors having habitable space. If a formal land use application is not required, the owner shall be required to submit a Site Plan review application as described in Section [515-5-5].
- C. **Multi-family attached dwelling units** (5 dwelling units or more): All multi-family buildings constructed within the City shall conform to the following:
1. Multiple family dwelling units shall have the following minimum floor area per unit:
- Table 515-4-2.1. Multi-Family Minimum Floor Area**
- | Unit Type | Minimum Floor Area per Unit |
|-----------------------------|---|
| Efficiency Units | 400 square feet |
| One Bedroom Units | 500 square feet |
| Two Bedroom Units | 700 square feet |
| More than Two Bedroom Units | An additional 100 square feet per bedroom |
2. Exterior Building Materials. Multi-family dwelling units shall be designed to create visual interest through a variety of materials, colors, textures, installation direction or other characteristics that create articulation either between units or floors.
- D. **Commercial Use Design Construction Standards.** All buildings constructed within TN-2, TN-3, CC, TC and GC Zoning Districts shall conform to the following:
1. Commercial buildings (principal structure) having less than 1,000 square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
 2. Commercial building accents such as cloth or metal awnings, trim, banding, walls, entries or any portion of the building wall accent colors shall not exceed fifteen (15) percent of each wall area.
 3. Exposed roof materials shall comply with the Minnesota State Building Code.
 4. Exterior Building Materials – For all business and commercial districts.
 - a. New buildings constructed in the CC, TN-2, TN-3, ME and TC Zoning Districts should be consistent with the character of surrounding structures. Typical and permitted materials include: brick,

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dimensioned stone, or their replicas, rock face block, decorative concrete panels, stone, stucco, wood, glass, or Exterior Finish Installation (EFIS). Material such as metal panels, window trim, flashing, accent features and the like that make up the exterior of a building shall not exceed twenty-five (25) percent.

- b. Building additions, remodeling, replacement or reconstruction of fifty (50) percent or greater, shall conform to the standards in this Section.

5. Exterior Building Materials. The following standards shall apply in the MS Zoning District

- a. New buildings constructed in the MS Zoning District should be consistent with the historic architecture and character of surrounding structures. Permitted materials include: brick, dimensioned stone, rock faced brick, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, or glass. Brick and stone replicas and exterior finish installations (EFIS) that are designed to be similar to the historic architecture of a building may be used on not more than fifty (50) percent of a building.
- b. Building additions that increase the size of a building by more than 50 percent, or any modification to the street facing façade of the building that alters the front setback, or character shall be required to conform to the standards of this Ordinance.

E. **Industrial Use Design Construction Standards.** All buildings constructed within the General Industrial Zoning Districts shall conform to the following:

1. Principal Structures in the Industrial Zoning District with less than 1,000 square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
2. Exterior Building Materials.
 - a. New buildings constructed in the GI Zoning District should be constructed using durable and lasting materials. Permitted typical materials include: brick, dimensioned stone, rock faced block, decorative concrete panels, architectural concrete block, cast in place concrete, stone, wood, glass, EFIS, or metal panels. Metal panels shall not encompass more than an average of fifty (50) percent of street side building elevations combined.
 - b. Any structure in the Industrial District within three hundred (300) feet of Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3 shall comply with the Commercial Exterior Building Material Standards established in the preceding Subsection [D].

515-4-3 Height.

A. **Exceptions.** The building height limits established within each Base Zoning Districts shall not apply to the following:

1. Farm structures such as silos.
2. Church spires.
3. Belfries.
4. Cupolas.
5. Windmills/Wind Energy Conversion Systems (WECS).
6. Solar energy devices.
7. Chimneys and smokestacks.
8. Flag poles mounted on a building.
9. Non-commercial television and radio antennae and satellite dishes not exceeding twenty (20) feet above the roof.
10. Parapet walls extending not more than three (3) feet above the limiting height of the building.
11. Elevator penthouses.

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12. Cooling towers/water towers.
13. Lighting structures for public outdoor recreational fields not exceeding eighty (80) feet in height.
14. Lighting structures for public hockey rinks not exceeding sixty (60) feet in height.
15. Telecommunication antenna and antenna towers as regulated by Section [515-3-42] of this Ordinance.
16. Poles, towers and other structures for essential services.

B. Conditional Use Permit. Building heights in excess of those standards contained in the Base Zoning District provisions and any other sections of this Ordinance may be allowed through a Conditional Use Permit, provided that:

1. Demonstrated need is established for the increase in height and said increase will not violate the intent and character of the Base Zoning District or any applicable Overlay Zoning District in which the structure is located.
2. The site is capable of accommodating the increased structure size.
3. The potential increased intensity and size of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
4. Public utilities and services are adequate.
5. The construction does not limit solar access to abutting and/or neighboring properties. A shadow study shall be required illustrating shadow encroachment on adjoining properties.
6. The provisions of Section [515-5-2] are considered and satisfactorily met.

515-4-4 Mechanical Equipment Screening.

A. Rooftop Mechanical Equipment. As viewed from ground level, within 100 feet of any public right-of-way, all mechanical equipment located on the roof shall be fully screened by a raised parapet or other architectural detail.

1. A raised parapet or other architectural feature that is an integral part(s) of the building shall be required as screening for rooftop mechanical equipment or to soften rooftop views.
2. Screening for rooftop mechanical equipment shall incorporate similar architectural features of the building and/or constructed of a material and color compatible with other elements of the building.

B. Mechanical Equipment Ground Floor. Ground mounted mechanical equipment, such as air compressors, pool pumps, transformers, sprinkler pumps, air conditioners, and similar equipment shall be screened on all sides except those facing a building. An eighty (80) percent opacity visual screen shall exceed the vertical height of the equipment being screened by at least six (6) inches. A three (3) foot open area shall be maintained around such equipment to facilitate repairs.

515-4-5 High Water Elevation. All new buildings shall comply with building elevation regulations of the Floodplain and Shoreland Ordinance. In areas where a building or improvement is located within the Floodplain and Shoreland Overlay District, the building shall be placed at an elevation such that the lowest building opening meets the following standards:

- A. A minimum of two (2) feet above 100-year flood elevation of areas with a separate emergency overflow.
- B. A minimum of three (3) feet above the 100-year flood elevation of areas with no separate emergency overflow.
- C. The 100-year flood elevation or high-water level shall be determined by a Registered Engineer.

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515-4-6 Accessory Buildings, Uses and Equipment.

A. **Agricultural Farm Buildings.** Agricultural farm buildings, accessory to an active farm operation on a lot twenty (20) acres or larger, designed, constructed, and used to house farm implements, agricultural activities, or agricultural products shall be exempt from the requirements of this Section and accessory building standards established within the Base Zoning District.

B. **Residential Accessory Buildings, Structures and Uses.**

1. An accessory building or attached garage shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway or within five (5) feet of the principal building. Attached accessory buildings shall meet the principal building setbacks of the respective Base Zoning District.
2. No accessory building or structure shall be constructed or developed on a lot prior to the time of construction of the principal building to which it is accessory. A garage may be constructed if a building permit is secured for the principal building.
3. The permitted accessory building Floor Area, Height and Number is established within the Base Zoning District. All accessory buildings must comply with the following standards:
 - a. All accessory buildings must comply with the lot and dimensional standards established with the Base Zoning District.
 - b. All lot coverage and impervious surface coverage requirements must be met.
 - c. Accessory Dwelling Units are permitted, or conditionally permitted, as established within the Base Zoning District. ADU's must also comply with the Use Standards established in Section [515-4-6].

C. **Design Standards.** No plastic, canvas or vinyl tarps shall be used in the construction of any accessory buildings. All buildings over 200 square feet shall be designed to be compatible with the Principal Structure. Metal roofs are allowed provided they are constructed with standing seams and concealed or exposed fasteners. All buildings that are 200 square feet or less may include a variety of building materials, may be metal sided, but shall have a pitched roof.

D. **Commercial Accessory Buildings Use**

1. Accessory buildings shall comply with the standards established in the Base Zoning District.
2. Commercial accessory buildings shall comply with all dimensional standards established by the Base Zoning District in which the use is located.
3. Commercial accessory buildings shall be constructed of building materials to match the principal structure and comply with the building material requirements established in Section [515-4-2].

E. **Industrial Accessory Building Use.**

1. Industrial accessory buildings shall not exceed thirty (30) percent of the gross floor space of the principal building and shall comply with the standards established in the Base Zoning District.
2. Industrial accessory buildings shall comply with all dimensional standards established by the Base Zoning District.
3. Industrial accessory buildings shall be constructed of building materials to match the principal structure or with any of the following fabric material:
 - a. Teflon Coated Fiberglass (PTFE)
 - b. Silicone-Coated Fiberglass (SIPE)
 - c. Woven PTFE (EPTFE)
 - d. Ethylene Tetrafluoroethylene (ETFE)

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- e. Vinyl Coated Polyester (PVC)
- f. High-Density Polyethylene (HDPE)

F. Greenhouses.

1. The following clear material is permitted for greenhouse construction to allow radiant heat from the sun:
 - a. Glass
 - b. Rigid Polycarbonate Panels
 - c. Semi Rigid Polyethylene Panels
 - d. Rigid Fiberglass Panels
 - e. Rigid Acrylic Panels
 - f. Semi Rigid Vinyl
 - g. Flexible, rolled material such as Polyethylene, Polycarbonate, and Fiberglass.

G. Swimming Pools.

1. Purpose. The following standards are established for the installation of any in-ground swimming pool meeting the following characteristics. Single-Family detached residential and Attached single-family dwellings (duplex, triplex, or fourplex). The following shall apply to all swimming pools which are intended for accessory uses to single-family attached and detached residential uses:
 - a. A building permit shall be required for any in-ground or permanent above ground swimming pool that is over twenty-four (24) inches in depth, or over 5,000 gallon capacity.
 - b. Seasonal swimming pools twenty-four (24) inches in depth or greater must have a ground fault circuit if connected to an electrical system.
 - c. An application for the construction of swimming pools shall be on a City Application Form and accompanied by a fee established by City Council Ordinance.
2. Multi-family residential uses/Commercial Pools. For private swimming pools that are intended for and used by the occupants of a multi-family dwelling unit or commercial structure and the guests of the occupants, or for private and public clubs and organizations, the following regulations shall be met in addition to the permit application requirements.
 - a. No part of the water surface of the swimming pool shall be less than fifty (50) feet from any lot line.
 - b. No pumps, filter or other apparatus used in connection with or to service a swimming pool shall be located less than fifty (50) feet from any lot line and must be contained within an insulated building.
 - c. The pool area shall be adequately fenced to prevent uncontrolled access from the street or adjacent property. Fences shall be at least five (5) feet in height. The bottoms of the fences shall not be more than six (6) inches from the ground. Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable (chain link fences must be vinyl coated with slats for screening). All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a height not lower than forty-eight (48) inches so as to be inaccessible to small children. Prior to filling the pool, the approved fence or enclosure must be completely in place and inspected and approved by the City Building Inspector. Adequate screening including, but not limited to, landscaping shall be placed between the pool area and adjacent lot lines.
 - d. All deck areas, patios, or other similar areas used in conjunction with the swimming pool shall be located at least thirty (30) feet from any lot line.
 - e. To the extent possible, back-flush water or water from pool drainage shall be directed onto the owner's property. Draining pools into the sanitary sewer is prohibited.

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H. Refuse and Recycling Material and Containers.

1. Refuse Containers Location and Screening.

- a. Residential Structures with Four (4) or Less Units. Garbage cans, waste containers and recycling bins shall be kept in rear or side yards or indoors except on pick up days.
- b. Commercial, Industrial, and Institutional Uses, Residential Structures with More Than Four (4) Units shall comply with the following:
 - i. All refuse, recyclable materials, and associated containers shall be stored within a structure or screened by a fence or wall as viewed from all abutting property and the public right-of-way.
 - ii. All refuse and containers must be screened from view of abutting properties and the public right-of-way by a wall of at least six (6) feet in height and a minimum opaqueness of eighty (80) percent. Chain link fences with slats are prohibited.
 - iii. Storage shall be located in the rear or side yard, if possible, and shall observe all accessory building setback requirements.
 - iv. The location must be accessible for pick up hauling vehicles.
 - v. All containers, fences and walls shall be approved by the Zoning Administrator and be kept in a good state of repair with lids designed to prevent spilling and spread of debris and access by animals.

515-4-7 Site Design Standards.

A. **Purpose and Intent.** It is the purpose of this Section to outline the general rules pertaining to lot size, building placement, open space, setbacks, setback exceptions and permitted encroachments that are not identified in specific zoning districts.

B. **Minimum Lot Area Requirements.**

1. Except for non-conforming lots of record governed by Section [515-5-10] of this Ordinance, the minimum lot area and dimensional requirements shall conform to the standards of the applicable Base Zoning District and any applicable Overlay District. No lot, yard, or other open space shall be reduced in area or dimensions so as to make such lot, yard, or open space less than the minimum required by this Ordinance, and if an existing yard or other open space is less than the minimum required, it shall not be further reduced.
2. No required yard or other open space allocated to a building or dwelling unit shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

C. **Buildable Area.**

1. Any lot or parcel served by public water or sanitary sewer services shall require a minimum buildable area to support a principal structure that complies with the minimum dimensional and lot requirements established within the Base Zoning District that the parcel is located. The required minimum lot area shall be exclusive of road easements.
2. Any lot or parcel served by private well and sanitary septic system must contain a minimum of 0.75 acres of contiguous buildable land capable of supporting an individual septic system that complies with Minnesota Rules 7080, or successor statutes. All other minimum dimensional and lot requirements of the Base Zoning District shall be met.

D. **Building Placement and Multiple Structures.**

1. Street Obstructions. All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.
2. Principal Buildings. Except in an approved Planned Unit Development (PUD) that specifically allows it, not more than one (1) principal building shall be located on a lot or parcel.

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E. Yards.

1. Yards. No required yard or other green space allocated to a building or development area shall be used to satisfy yard, other green space, or minimum lot area requirements for any other building or development.
2. Green Space. The Base Zoning District establishes the maximum impervious surface coverage of a lot or parcel. The remaining uncovered area shall be considered Green Space.

F. Setbacks

1. Reductions. No setback or yard shall be reduced in area or dimension to make such setback or yard less than the minimum required by this Ordinance, and if the existing setback, yard or other green space as existing is less than the minimum required, it shall not be further reduced.
2. Front Setback Exception. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure.
3. Corner Lots and Double Frontage Lots. All lots and improvements must conform to the setback standards as established in the Base Zoning District. In the case of a lot with double frontage the primary frontage shall be established by determining the orientation of the principal structure's main entrance.
4. Traffic Visibility Setback. The visibility setback, or site triangle, shall be regulated per the Base Zoning District standards.

G. Permitted Yard Encroachments. The following structural elements or equipment shall not be considered encroachments on required yards:

1. Flag poles, sidewalks, wheelchair ramps, trees, shrubs, plants, yard lights, mailboxes, floodlights, or other sources of light illuminating authorized illuminated signs, or light standards for illuminating yards for safety and security reasons, provided the direct source of light complies with Section [515-4-8] of this Ordinance. Replacement of any item located within a public easement which has been destroyed or damaged due to accessing the easement shall be at the owner's expense.
2. Flues, belt course, bay windows, leaders, sills, pilaster, eaves, lintels, cornices, gutters, awnings, open canopies, chimneys, ornamental features, and open fire escapes, provided they do not extend more than four (4) feet into a required yard.
3. Terraces, steps, decks, uncovered porches, stoops or similar structures, which do not extend in elevation above the height of the ground floor elevation of the principal building and do not extend within two (2) feet of any lot line.
4. Decks, balconies, uncovered porches, and/or similar features, attached to the principal building which extend in elevation above the height of the ground floor elevation of the principal building provided they do not extend within ten (10) feet of the rear lot line or extend beyond side yard accessory building setbacks.
5. In rear yards, clothes lines, recreational equipment (non-vehicular), trellises, open arbors are permitted provided that they maintain a five (5) foot setback from the side and rear lot lines. No encroachment shall be permitted within existing drainage or utility easements.
6. Accessory equipment or uses including: gazebos, air conditioners, accessory antennas, sport courts, swimming pools, and trash enclosures are as regulated within this Section.
7. Fences that comply with the standards and regulations established in Section [515-4-11].
8. Essential services.

H. Zero Lot Line Subdivisions.

1. **Attached Single-Family Residential and Multi-family Residential Uses.** If existing duplex, triplex, fourplex townhouses, or apartment units are proposed to be subdivided so that each unit is on an individual

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unit or condominium basis for owner occupancy, it shall require a Planned Unit Development (PUD) according to the provisions of Section [515-5-7] of this Ordinance. Any proposed subdivision shall meet the following requirements:

- a. Prior to a duplex, triplex or fourplex building subdivision, the base lot shall meet all the requirements of the Base Zoning District in which the building is located.
 - b. There shall be no more than one (1) principal structure on a base lot in all Zoning Districts, unless otherwise permitted within an approved PUD. The principal structure on a lot created in a duplex, triplex or fourplex building subdivision will be that portion of the dwelling unit that is existing or constructed on the platted lot.
 - c. Permitted accessory uses as defined by the Base Zoning District is acceptable provided that the use meets all the dimensional and lot requirements.
 - d. A property maintenance agreement shall be arranged by the applicant and submitted to the City Attorney for review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure including but not limited to siding, roofing (type and color), fencing, driveways, maintenance, etc. and the lots to meet minimum City standards. The agreement is to be filed with the County Recorder's office as a deed restriction against the title of each unit lot.
 - e. Separate public utility service shall be provided to each subdivided lot or unit and shall be subject to the review and approval of the City Engineer.
 - f. The subdivision is to be platted and recorded in conformance to requirements of the Subdivision Ordinance.
2. Buildings may be excluded from side yard requirements if party walls are utilized or if the adjacent buildings are planned to be constructed as an integral structure and a Conditional Use Permit is secured.

515-4-8 Outdoor Lighting.

- A. **Purpose and Intent.** It is the purpose of this Section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing nighttime safety, utility, security and productivity.
- B. **Exemptions.** The provisions of this Section shall not apply to the following:
1. The use of temporary outdoor lighting used during customary holiday seasons.
 2. The use of temporary outdoor lighting used for civic celebrations and promotions.
 3. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
 4. Emergency lighting used by police, fire, and rescue authorities.
 5. Outdoor athletic facilities, except that lighting for such facilities, shall be shut off within ninety (90) minutes of final activity.
- C. **Non-Conforming Uses.**
1. Existing Fixtures. All outdoor lighting fixtures existing and installed prior to the effective date of this Ordinance are exempt from regulations of this Section except that the light source shall be controlled to minimize light trespass onto adjacent property. Light trespass shall not exceed one (1) foot candle at the center line of a street or four-tenths (0.4) foot candles at the property line of adjacent residential property.
 2. New Fixtures. Whenever a light fixture existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this Section shall be satisfied.
- D. **Light Trespass.**

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1. Maximum Light Levels. Light trespass shall not exceed one (1) foot candle at the center line of a public street or four-tenths (0.4) foot candles at the property line of adjacent residential property as measured at the property line per the method outlined in this Section.
2. The foot candle level of a light source shall be measured at the property line and taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.

E. Performance Standards.

1. Residential Use Standards. All exterior lighting shall be directed away from adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
 - a. The light source shall be controlled so as not to light adjacent property in excess of the maximum light levels defined by this Ordinance.
 - b. The maximum height of the fixture, pole and base above the ground grade permitted for light sources is thirteen (13) feet. A light source mounted on a structure shall not exceed the height of the structure.
 - c. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of twenty (20) feet may be allowed.
 - d. Any luminaire affixed to a structure shall contain a full cut off fixture which directs and cuts off light at an angle of ninety (90) degrees or less.
 - i. Any luminaire or light source not affixed to a structure shall be hooded and down cast to protect the night sky.
2. Business/Industrial Use Standards. All exterior lighting shall be directed away from adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:
 - a. The luminaire shall contain a full cut off fixture which directs and cuts off light at an angle of 90 degrees or less.
 - b. The light source shall be controlled so as not to light adjacent property in excess of the maximum light levels defined by this Ordinance.
 - c. Architectural/historical lights that include fixtures that are not shielded, or lighting of entire facades or architectural features of a building are permitted. In no case shall the light affect adjacent property in excess of the maximum light levels defined in this Ordinance.
 - d. In GC and CC Districts, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is thirteen (13) feet. A light source mounted on a structure shall not exceed the height of the structure.
 - i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 20 feet may be allowed.
 - e. In TC, MS, ME Districts, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is 20 feet. A light source mounted on a structure shall not exceed the height of the structure.
 - i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 25 feet may be allowed.

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- f. In the GI District, the maximum height of the fixture, pole and base above the ground grade permitted for light sources is 25 feet. A light source mounted on a structure shall not exceed the height of the structure.
 - i. If the bulb/light source is fully recessed and/or shielded from view by an observer at five (5) feet above grade at the nearest property line, an increase in light source height to a maximum of 30 feet may be allowed.
- g. *Location.*
 - i. The light source of an outdoor light fixture shall be set back a minimum of three (3) feet from a street right-of-way or residential property and three (3) feet from any other property line.
 - ii. No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by an Administrative Permit.
 - iii. Direct or reflected light from high temperature processes such as combustion or welding shall not be visible from any adjoining property.
- 3. Outdoor Recreation. Outdoor commercial or public recreational uses such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts have special requirements for nighttime lighting. In such cases, an Administrative Permit shall be required and compliance with the following:
 - a. No outdoor recreation facility shall be illuminated after 12:00 a.m. except for security lighting. Exceptions may be granted by the Zoning Administrator for special events.
 - b. Off-street parking areas for outdoor recreation uses shall meet the requirements stated for business or industrial applications as found in Section [515-4-12] of this Ordinance.
 - c. The provisions for an Administrative Permit, Section [515-5-9] of this Ordinance, are considered and satisfactorily met.
- F. **Submission of Plans.** All zoning and building applications, except single and two family residential, that include outdoor lighting shall submit the following information in addition to other information required by the Zoning Administrator:
 - 1. Sketch Plans indicating the location of all lighting devices.
 - 2. Description of the lighting devices, fixtures, lamps, supports, and reflectors. The description shall include, but is not limited to, catalog cuts by manufacturers and drawings.
 - 3. Photometric plans showing the location of each light source and the level of light (measured in foot candles) every 20 feet.

515-4-9 Landscaping, Green Space and Screening Requirements.

- A. **Purpose and Intent.** The purpose of this Section is to establish standards for general landscaping, green space and required screening applicable to all Districts. When landscape material is used for screening it shall incorporate plant types and sizes that will promote healthy landscapes. These standards are intended and designed to assure compatibility of uses and to enhance the health, safety and general welfare of the residents of the City of Brainerd.
- B. **Minimum Requirements.** The requirements in this Section are minimum requirements, and under no circumstances shall they preclude the ability of the property owner and the City from agreeing to more extensive landscaping.
- C. **Invasive Species.** The planting of any noxious weed that is prohibited by Crow Wing County, the State of Minnesota, or the United States Federal Government shall not be planted on any property within the Brainerd City Limits. Any noxious weed that is on the State of Minnesota's Eradicate List must be eradicated, meaning all of the above and below ground parts of the plant must be destroyed, as required by Minnesota Statutes, Section [18.78].

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515-4-10 General Landscaping Improvement Standards.

A. **Landscape Improvement Standards by Use.** Except as may be required or permitted in this Section, or provided by development contract or approval by the City Council, the site area remaining after providing for any required off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ground cover such as mulch or landscape rock, turf grass, ornamental grass, shrubs, trees other acceptable vegetation or treatment generally used in landscaping prior to the date of a Certificate of Occupancy.

1. Single-family detached and single-family attached residential uses. In addition to the specific planting requirements stated below all yards shall be started with seed or sod and required landscaping improvements installed.
2. Multi-family attached residential uses. The Main Street District is exempt from these requirements.
 - a. *General Site Landscaping.* Four (4) shrubs shall be planted per dwelling unit. Two (2) perennials can be substituted for (1) shrub. Shrubs used as required screening as identified in (b) shall not be counted in meeting these requirements.
 - b. *Privacy Screen.* Where multiple family dwellings are designed so that rear open areas or patio areas front onto a public or private street an eighty (80) percent opacity four (4) foot high landscaped privacy screen shall be provided. The screen shall consist of a combination of trees, shrubs, berms and/or fences (no walls).
3. Non-Residential Uses.
 - a. *General Site Landscaping.* All developed portions of the site shall conform to the general landscaping requirements in this Section, except where screening is required.
 - b. *Commercial District Landscape Requirement.* One (1) shrub is required for every 300 square feet of total building floor area up to 10,000 square feet. Thereafter one (1) shrub is required for every 600 square feet in excess of 10,000 square feet. Two (2) perennials can be substituted for (1) shrub. The required plantings should be spaced around the foundation of the building and do not count towards any required screening. The Main Street District is exempt from this requirement.
 - c. *Screening.* A six (6) foot high fence or landscaped screen, providing eighty (80) percent year around opacity, shall be required wherever a non-residential use abuts directly upon land zoned for residential purposes. Berms may be used as part of the six (6) foot screen height but shall not be used to achieve more than three (3) feet of the required height. Landscape material provided along the outside of a fence or wall (except when adjacent to an alley) with maximum spacing is required as follows:

Table 515-4-10.1. Plant Spacing Requirements For Screening

Type of Landscape Screening	Planting Requirements
4' High Deciduous Shrub	1 per 4 lineal feet
4' High Evergreen Shrub	1 per 5 lineal feet
6' High Deciduous Shrub	1 per 6 lineal feet
6' High Evergreen Shrub	1 per 8 lineal feet

- d. Required screen height must be met within three (3) years of planting.
 - e. See Section [515-4-12] for parking lot requirements.
- B. **Landscape Improvements in Easement Areas.** Where possible, all landscape improvements shall be placed outside of any required drainage or utility easement. If it is not possible to avoid improvements within easement areas, the owner shall agree that any fence, wall, or trees placed upon utility easements are subject to removal at the cost of the property owner if required for the maintenance or improvement of the utility, and that if such landscape improvement is required for screening as defined in this Section that it shall be the responsibility of the owner to reinstall or plant new landscaping to meet the screening requirement..

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C. **Required Tree Planting.** Except for lots and parcels developed prior to the adoption of this Ordinance, new development shall have the following minimum landscape requirements:

1. All required tree planting plans shall have a mixture of conifer and deciduous trees.
 - a. Coniferous trees shall not be located within 50 feet of a street loaded driveway.
2. In all commercially zoned districts, new development shall include a planting rate of one (1) tree for every 100 feet of frontage along all roads. The required trees shall be planted within 10 feet of the front property line, or right-of-way line. Parking lot island tree planting requirement does not count towards this number. The Main Street District is exempt from this requirement.
3. Industrial zoned property with street frontage along Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3 must meet commercial tree requirements.
4. In all Rural Living and Garden Living Base Zoning Districts new parcels or lots shall include plantings at the rate of one (1) tree per 3,000 square feet of undeveloped or open space area. Requirement does not include delineated wetland area.
5. In all Contemporary Neighborhood and Traditional Neighborhood Base Zoning Districts new lots or development shall include landscape plantings as identified in Table [515-4-10.2]. A minimum of one deciduous tree shall be planted in the front yard within 10-feet of the front property line, or right-of-way line.

Table 515-4-10.2. Required Tree Planting in CN and TN Zoning Districts

Lot width	Number of trees	Spacing on center
45-60'	1	Per each 20'
65'+	1	Per each 25'

- a. Required trees may be planted at uniform intervals, at random, or in groupings. Newly planted trees shall comply with the requirements of this Ordinance. Trees retained on site following development can be reduced from the total required plantings.
- b. Trees that shall not be planted and do not count towards the required planting include the following: Amur Maple, Black Locust, Norway Maple, Russian Olive, Siberian Elm, Poplar, and Cottonwood.

D. **Green Space.**

1. **Non-Residential Site Development and Non-Residential Site Redevelopment.** Each Base Zone District shall set a maximum impervious surface coverage as defined in Base Zoning District. The remaining area shall be considered green space which may be used for stormwater management, raingardens, wetland areas and required buffers, and landscaping. A minimum of fifty (50) percent of the required green space shall be located along the street frontage with the most traffic and visibility, or adjacent to any residential use or residentially zoned property to provide a buffer between the non-residential use or structure.

E. **Screening.**

1. Landscape Plan. Prior to approval of a building permit, a landscape plan and planting schedule shall be approved. The planting schedule shall include species, size of plantings, mature size, and site location. The landscape plan shall be developed with an emphasis upon the following areas:
 - a. The boundary or perimeter of the proposed site adjoining other property.
 - b. The immediate perimeter of the structure.
 - c. The perimeter of parking and loading areas.
2. Requirements. All landscaping incorporated in said Plan shall conform to the following standards and criteria:
 - a. All plants must at least equal the following minimum size:

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Table 515-4-10.3: Minimum Landscape Plant Standards.

		Potted/Bare Root or Balled or Burlapped
Shade Trees*		1 ½ inch diameter
Ornamental Trees (Flowering Crab, Hawthorn, etc.)		1 ½ inch diameter
Evergreen Trees		4 - 5 feet high
Tall Shrubs and Hedge Material (Evergreen or Deciduous)		2 ½ feet high (5 gallon)
Low Shrubs:	Deciduous	12 – 24 inches (2 gallon)
	Evergreen	12 – 24 inches (2 gallon)
	Spreading Evergreens	6 – 18 inches (2 gallon)
Perennials	Hardiness Zones 2-4	(1 gallon)
Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, man-made irrigation, grading, etc.)		
* All required plantings must be of approved nursery stock.		

3. Recommended Plant Species for Screening. A Landscape Plan should incorporate a variety of different species to promote visual interest and plant resilience. The following is a list of plant species based on the required screening categories. Substitutions can be made with approval from the Zoning Administrator.

a. *Four (4) foot high plant screening approved shrubs.*

- i. Deciduous Shrubs: Spirea, Potentilla, Weigela, Honeysuckle, Ninebark, Alpine Currant, Compact Viburnum, Hydrangea, Boxwood, Dwarf Korean Lilac, Dogwood, Chokeberry, Serviceberry, Dwarf Arctic Willow, Globe Peashrub, Cotoneaster.
- ii. Evergreen Shrubs: Sea Green Juniper, Globe Arborvitae, Maney Juniper, Taunton's Yew, Mugo Pine.

b. *Six (6) foot high plant screening approved shrubs.*

- i. Deciduous Shrubs: Red Prince Weigela, Ninebark, Compact Viburnum, Hydrangea, Boxwood, Dwarf Korean Lilac, Miss Kim Lilac, Dogwood, Chokeberry, Serviceberry, Dwarf Arctic Willow, Globe Peashrub, Cotoneaster.
- ii. Evergreen Shrubs: Pyramidal Arborvitae, Techney Arborvitae, Maney Juniper, Tannenbaum Mugo Pine, Sky High Juniper, Wichita Blue Juniper.

F. Design.

1. All land area disturbed as result of development activities not planned for improvements within the property lines (or beyond, if site grading extends beyond) must be restored and revegetated with seed or sod and landscaping as approved within the Landscape Plan.
2. Newly established or created turf slopes in excess of three to one (3:1) are prohibited unless approved by the Zoning Administrator.

G. Parking Lots.

1. All exposed parking areas of ten (10) or more spaces in a front and side yard abutting a public street right-of-way shall be landscaped. Industrial zoned property is exempt from this requirement except for those business with street frontage along Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, or County Road 3.
2. One (1) shrub shall be planted for every five (5) lineal feet of parking lot perimeter that is adjacent to a public street. Two (2) perennials can be substituted for one (1) shrub. Plants shall be two (2) feet to four (4) feet in height and designed in a way to screen the parking lot from street view.

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3. When a parking lot is across the street from a residentially zoned property, the required screen height shall be four (4) feet. Refer to Table [515-4-10.1] Plant Spacing Requirements for Screening.
4. When a parking lot is adjacent to or across an alley from a residentially zoned property, the required screen height shall be increased to six (6) feet. Refer to Table [515-4-10.2] Plant Spacing Requirements for Screening.
 - a. Alley screening requirement is only necessary when parking stalls or drive through lanes are facing a residentially zoned property.
5. A four (4) foot high wall or fence constructed of masonry, brick, wood, or vinyl may be used for required screening. The area between the parking lot and a wall or fence shall be planted with grass or established with landscape material.
6. A chain link fence with or without slats is not permitted to satisfy screening requirements.
7. Landscape material is required on the exterior, or finished side of a fence with maximum spacing required as follows:
8. Off-street parking facilities with internal parking rows of five (5) or more spaces shall incorporate irrigated landscaped islands on both ends of the row as part of the design. Landscaped islands shall be a minimum of six (6) feet wide and extend the length of the parking stall. The islands shall be contained within curbed beds. When internal parking rows contain twenty (20) or more parking stalls, landscape islands shall be provided so that there is not a continuous row of over ten (10) parking spaces.
 - a. In lieu of irrigated islands, drought tolerant plant materials may be used. Plant material information shall be provided to verify drought tolerance.
 - b. Recommended drought tolerant shrubs include: Spirea, Potentilla, Alpine Currant, Dwarf Bush Honeysuckle, Lilac, Ninebark, Juniper, Spruce.
 - c. Recommended drought tolerant perennials include: Russian Sage, Coneflower, Black Eyed Susan, Catmint, Salvia, Veronica, Yarrow, Sedum, Daylily, Ornamental Grasses.
 - d. At least fifty (50) percent of each interior landscaped area shall be covered by living plant material, such as sod shrubs, perennials, and ground cover or trees.
 - e. One (1) tree is required in every parking lot island.
 - f. It is not the intent of this Section to relieve a project from the installation of islands or peninsulas that are necessary to promote the safe and efficient flow of traffic, regardless of parking lot size.
 - g. No landscaping or screening shall interfere with drive or pedestrian visibility for vehicle entering, circulating or exiting the premises.

H. Installation and Maintenance. The following standards shall be observed where installation and maintenance of landscape materials are required:

1. Installation. Landscaping shall be installed in the manner recommended by the manufacturer. Wire and rope caging and non-degradable burlap around tree root balls shall be removed during planting.
2. Landscape Guarantee. All new plants shall be guaranteed for one (1) full year from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or shall be replaced.
3. Protection from Vehicles. Landscaping shall be protected from vehicles through use of curbs or wheel stops in parking lots.
4. Seeding or Sodding/Off-Season Planting Requirements. Lots or parcels shall be established with seed or sod prior to issuance of a Certificate of Occupancy or property use. If development is completed during the off-season when plants cannot be installed, the owner shall provide a performance guarantee to ensure installation of required landscaping in the next planting season.

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5. **Maintenance.** Landscaping required by this Ordinance shall be maintained in a healthy, neat, and orderly appearance, free from refuse and debris. A healthy, neat and orderly appearance includes proper pruning, regular mowing of lawns, and removal of all litter and the replacement of dead and unhealthy plant material. All unhealthy and dead plant material shall be replaced immediately upon notice from the City of Brainerd, unless the season is not appropriate for planting, in which case such plant material shall be replaced at the beginning of the next planting season.
- a. All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within 300 feet of all plant material to be established and maintained. Trees, shrubs, and other plantings and lawn areas shall be watered regularly throughout the growing season.
 - b. *Exception.* Some requirements of preceding Subsection (E.) may be waived if a drought tolerant landscape plan is approved and proper maintenance and management plan is established specifically for the plant schedule identified.
 - c. Maintenance of a required buffer plantings shall be the responsibility of the individual property owners or, if applicable, the homeowner's association.
 - d. All constructed or manufactured landscape elements, such as but not limited to benches, retaining walls, edging, and so forth, shall be maintained in good condition and neat appearance. Rotted, deteriorated, or damaged landscape elements shall be repaired, replaced, or removed. Replacement of landscape materials or plantings in a required buffer shall be consistent with the original screen design. All repair or replacement of plantings in a required buffer shall be done within ten (10) days of written notification from the City.

515-4-11 Fence Standards.

- A. **Permit Required.** A fence permit is required for any fence, partition, structure, wall or gate constructed within the required yard.
- B. **Fence Exemptions.** Fences which are ninety (90) percent open (barb wire, chain link, woven wire, and other similar type fences) which are used for containing non-domestic animals within the RL-1, RL-2 and GL Zoning Districts are not subject to the provisions of this Section and do not require a fence permit.
- C. **Fencing Sketch Plan.** An application for a fence permit shall be accompanied by a scaled Sketch Plan providing lot dimensions, the location of existing buildings, structures, and easements on the lot, and the location of the proposed fence. Burden of proof for property line and pin locations shall be the responsibility of the property owner.
- D. **Fence Location.** All fences or walls shall be located entirely within the property of the person or firm constructing the fence unless the owner of the adjoining property agrees, in writing, that such fence may be erected on the common property line of the respective properties.
- 1. No fence or wall shall be permitted on public rights-of-way.
 - 2. Traffic visibility requirements set forth in the Base Zoning District shall be met.
 - 3. No fence or wall shall obstruct natural drainage or extend within a wetland, drainage ditch, stream, or river.
 - 4. Fences may be constructed within utility and drainage easements with the written permission of the Zoning Administrator.
 - 5. Wire fences other than chain link are not permitted within five (5) feet of the property line.
 - 6. All fences shall be located at least four (4) feet from an alley right-of-way.
- E. **Fence Construction and Maintenance.**
- 1. Every fence shall be constructed in a professional manner and of substantial materials reasonably suitable for the purpose for which it is intended. The materials and design shall be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.

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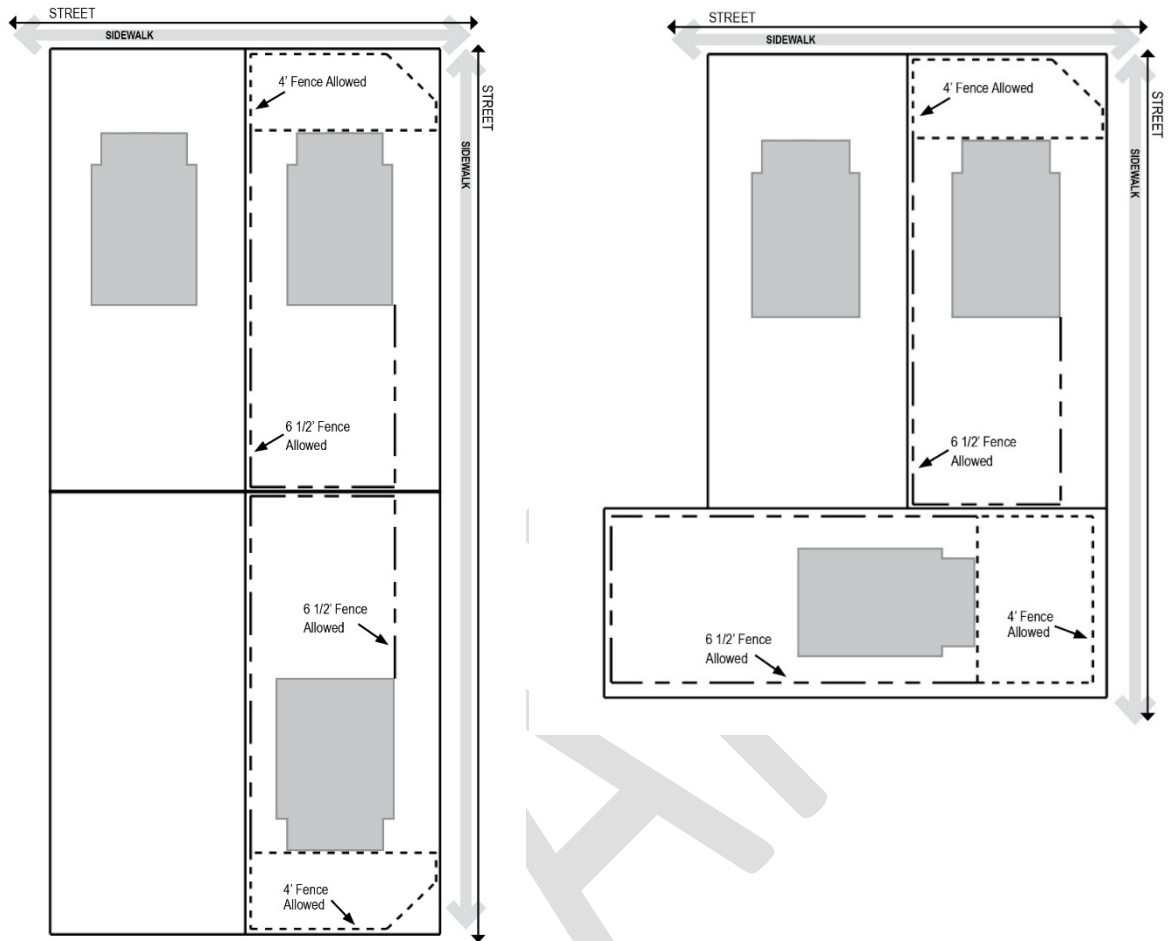
2. Every fence shall be regularly maintained and shall not become or remain in a condition of disrepair, or constitute a nuisance.
3. All posts or similar supporting devices used in the construction of fences shall face inward toward the property being fenced. That side of the fence considered to be the face shall be oriented toward abutting property or rights-of-way.
4. Electric and barb wire fences are prohibited in residential districts.
5. Within non-residential districts, barbed wire may be attached to the tops of fences with the following conditions:
 - a. Fences shall be a minimum of eight (8) feet in height exclusive of the security arm.
 - b. The security arm shall be angled in such a manner that it extends only over the property of the permit holder.
 - c. Wire security fencing shall not be permitted within the required front yard or along a property line abutting a residential use.
6. Solid walls, including retaining walls in excess of forty-eight (48) inches in height require a building permit.
7. The good or finished side shall face the neighboring property.
8. All fences that completely enclose an area shall contain a gate to provide public safety access.

F. Fence Height.

1. Fences may be located in any yard up to a height of four (4) feet.
2. Except as prohibited by Section [D] a fence up to six and one half (6½) feet high may be erected from a line extended from the front façade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line (see Figure 515-4-11.1).
3. Fence height shall be measured from the adjacent ground level to the top of the fence section on the side facing the neighboring property. Fence posts above the fence section and ornamental post features are exempt from the height limits.

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Figure 515-4-11.1 Fence Height Lot Diagrams



4. Height Exceptions.

- a. Fences for sport courts may be up to 12 feet in height with ten (10) foot setback from any property line, and must be located behind the principal structure
- b. Residential fences up to eight and one half (8½) feet in height are permitted along a property line abutting a commercial, industrial, or semi-public use or non-residential zoning district.
- c. Non-residential fences up to eight and one half (8½) feet in height are permitted. Such fences in a front yard must be ninety (90) percent open.
- d. Fences taller than eight and one half (8½) feet in non-residential districts require a Conditional Use Permit.

515-4-12 Off-Street Parking

- A. Purpose and Intent.** The regulations of off-street parking spaces within this Ordinance is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

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- B. Application of Off-Street Parking Regulations.** The regulations and requirements set forth herein shall apply to all off-street parking facilities, except single-family detached and duplex dwellings, in all of the Zoning Districts of the City.
- C. Sketch Plan Drawing Necessary.** Applications for a change of use, new construction or expansion in all Zoning Districts shall be accompanied by a Site Plan drawn to scale and dimensioned and indicating the location of off-street parking, loading spaces, driveways, and curb cuts in compliance with the requirements set forth in this subdivision and Section [515-5-9] of this Ordinance.
- D. Exemptions from Parking Requirements.** All uses located within the Commercial Corridor (CC), General Commercial (GC), Town Center (TC), Main Street (MS), and General Industrial (GI) Zoning District shall be exempt from the following off-street parking requirements of this Ordinance.
- E. General Provisions.**
1. Space Reduction. Existing off-street parking spaces upon the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.
 2. Existing Uses. Should a legal, non-conforming building, structure, or use in existence upon the effective date of this Ordinance be damaged or destroyed by fire or other cause, it may be re-established in accordance with Section [515-5-10] of this Ordinance, except that in so doing, any off-street parking or loading which existed shall be retained.
 3. Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this Ordinance.
 4. Use of Parking Area. Required off-street parking space in any district shall not be utilized for storage of goods or for the storage of vehicles which are inoperable or for sale or for rent.
 5. Accessible Parking. All parking associated with any building, structure or use shall be required to conform to the disability accessible parking standards pursuant to Minnesota State Statutes 168.021, as may be amended.
 6. Parking for Residential Uses. Off-street parking areas accessory to a residential use shall be utilized solely for the parking of passenger automobiles, recreational vehicles, and/or one (1) truck not to exceed 12,000 pounds gross weight rating for each dwelling.
 7. Use of Required Parking Facilities for Commercial and Industrial Uses. Required off-street parking spaces in commercial and industrial districts shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles.
- F. Calculating Space.**
1. The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent, except when floor plans are submitted that identify net usable floor area of the building exclusive of ancillary floor areas that do not generate parking demand (e.g., stair wells, hallways, restrooms, closets, utility rooms).
 2. When determining the number of off-street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.
 3. In gymnasiums, places of worship and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four (24) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements.
 4. Except as provided for under joint parking and shopping centers, should a building contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required. Warehouse area associated with retail uses shall have parking requirements calculated separately from the retail requirements.

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G. Access and Driveway Design.

1. Collector/Minor Arterial Street Access. Access to any street shown as a collector or arterial roadway on the City's Comprehensive Plan shall require review and comment by the affected agency (County Highway Engineer or MnDOT) and City. This review shall be required prior to the issuance of any building permits. The County or City Engineer shall determine the appropriate location, size and design of each access drive and may limit the number of access drives in the interest of public safety and efficient traffic flow.
2. Street/Alley Access. Except in the case of single, two family and townhouse dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single-family detached and single-family attached dwellings, parking area design which requires backing into the public street is prohibited.
3. MnDOT Highway Access. A MnDOT permit is required to create, modify or to change an access to a State highway.
4. Curb Cut/Driveway Access Location.
 - a. No residential curb cut/driveway access shall be located less than 30 feet from the intersection of two (2) or more local street rights-of-way. Minimum distance from an intersection for commercial uses shall be 60 feet. This distance shall be measured from the intersection of lot lines. Curb cut/driveway access setbacks from the intersection of streets with higher functional classifications shall be consistent with the recommendations of the Comprehensive Plan and require approval by the City Engineer.
 - b. Street functional classification shall be defined by the City's Comprehensive Plan.
 - c. The setback measurement shall be measured from the edge of the street right-of-way to the nearest edge of the curb cut.
 - d. Driveways onto arterials and major collectors shall be prohibited where alternative street access is available. For existing lots of record, where alternative access is not available, direct access onto arterial and major collectors may be permitted, provided a Sketch Plan is submitted for review and approval of the City Engineer. Approval is also subject to the provisions of this Ordinance.
5. Residential uses in residential zoning districts may construct driveways and parking areas up to the property line but shall not encroach within drainage and utility easements.
6. Non-residential uses in residential Zoning Districts and uses in all other Zoning Districts, driveways and parking stalls shall be set back a minimum of three (3) feet from side and rear property lines. The City may allow an exception to the required setback to accommodate a shared driveway along a common property line, provided the following conditions are met:
 - a. Access easements are established and recorded over the shared driveway in favor of each affected property owner.
 - b. A maintenance agreement between the property owners is established and recorded for the shared driveway.
7. Each lot and parcel shall be entitled to at least one (1) curb cut. Lots and parcels shall be allowed one (1) curb cut access for each 125 feet of street frontage. Corner lots and parcels are allowed one (1) curb cut access plus one (1) additional curb cut access for frontages over 125 feet.
8. Curb Cut/Driveway Width. No curb cut shall exceed 30 feet in width as measured at the street right-of-way line. Commercial and Industrial properties requiring larger curb cuts to accommodate truck turning radii shall be allowed to have curb cuts up to 36 feet in width. Access to a collector or arterial roadway shall require review and approval by the City Engineer and any other affected agency.

H. Parking Surface Design Standards.

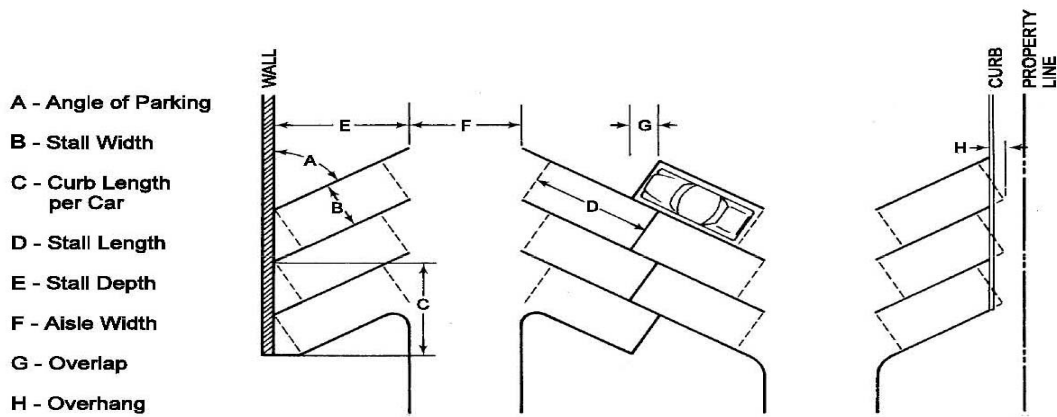
1. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the standards established in the Table [515-4-12.1] and Figure [515-4-12.1] as follows:

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Table 515-4-12.1: Parking Area Standards.

Angle of Parking (A)	Stall Width (B)	Curb Length Per Car (C)	Stall Length (D)	Stall Depth Wall to Aisle (E)	Stall Depth Interlock to Aisle	Aisle One Way (F)	Aisle Width Two Way (F)
90°	10' 0"	10' 0"	18' 0"	18' 0"	18' 0"	24' 0"	24' 0"
75°	10' 0"	9' 6"	18' 0"	20' 8"	19' 10"	21' 6"	23' 0"
60°	10' 0"	10' 5"	18' 0"	21' 0"	19' 10"	18' 0"	22' 0"
45°	10' 0"	12' 9"	18' 0"	19' 10"	17' 10"	15' 0"	22' 0"
0°	10' 0"	22' 0"	22' 0"	9' 0"	9' 0"	12' 0"	24' 0"

Figure 515-4-12.1: Parking Area Diagram.



2. **Semi-Tractor Trailer Parking.** Semi-tractor trailer parking shall be in stalls designated for such parking in terms of width and length. Parking of semis lengthwise across standard parking stalls shall be prohibited.
3. **Within Buildings.** The off-street parking requirements may be furnished by providing a space so designed within the principal building or one (1) structure attached thereto. No building permit shall be issued to convert said parking building into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Ordinance.
4. **Grade Elevation.** Excepting driveways for single-family detached and duplex dwellings, the grade elevation of a parking area shall not exceed five (5) percent.
5. **Surfacing.**
 - a. *One- and two-family residential parking surface requirements.* An improved parking surface for residential parking in all residential districts except RL-1 and RL-2 includes concrete, bituminous (pervious or impervious), pavers (pervious or impervious), brick, Class V, pea gravel and stones. Class V, pea gravel, stone, and grass are permitted unimproved surfaces for residential uses as described in this Section.
 - i. No more than forty (40) percent of a property can be improved parking surfaces.
 - ii. Parking is permitted on an improved and unimproved surface in the rear yard.

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- iii. The width of a garage plus an additional forty (40) percent of the width of the garage can be surfaced for a driveway in the front and side/corner yards.
- iv. Parking in front and side street yards is allowed on concrete, bituminous and pavers/brick. Material such as Class V, rocks, pea gravel and stone are not allowed.
- v. A driveway without a garage shall extend into the yard alongside a dwelling twenty-four (24) feet.
- vi. Parking along an interior side of a house is permitted on an improved surface.
- b. *Multiple family and non-residential parking surface requirements.* All areas intended to be utilized for parking space and driveways shall be surfaced with concrete, bituminous, and pavers/brick. The City may allow up to twenty-five (25) percent of required parking stalls or one hundred (100) percent of seasonal or overflow parking in excess of that required to be provided as green parking with a turf surface which is supported by a City approved parking lot sub-base and turf guard fabric.
 - i. Plans for surfacing and drainage of driveways and stalls for ten (10) or more vehicles shall be submitted to the City Engineer for review and the final plans shall be subject to the City Engineer's written approval.
 - ii. Plans for surfacing and drainage of driveways shall be reviewed and approved by the Zoning Administrator prior to issuance of a building permit. Said surfacing shall be completed within one (1) year following the date of building occupancy permit.
- 6. Striping. Except for single, two family or townhouses, all parking stalls shall be marked with white or yellow painted lines not less than four (4) inches wide.
- 7. Lighting. Any lighting used to illuminate an off-street parking area shall be arranged as to reflect the light away from the adjoining property. All exterior lighting shall comply with Section [515-4-8] of this Ordinance.
- 8. Cart Storage. Retail commercial uses that have customer service carts shall be required to provide ample space for the storage of carts within off-street parking areas, subject to the approval of the Zoning Administrator. The need and specific amount of required cart storage space shall be determined as part of the Site Plan review. When required, cart storage areas shall not occupy required off-street parking space, shall be clearly delineated, and shall include facilities for cart confinement.
- I. **Maintenance.** It shall be the joint responsibility of the operator and owner of the principal use, uses and/or buildings to maintain, in a neat and clean manner, the parking space, access ways, landscaping and required screening.
- J. **Ownership.**
 - 1. Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Sections [515-3-30] of this Ordinance.
- K. **Number of Spaces Required.** The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth.
 - 1. Auto, Boat, Trailer, Farm Equipment and Other Outdoor Sales Lots. One (1) space per four hundred (400) square feet gross sales and office floor area and of the building plus one (1) space per each two thousand (2,000) square feet of gross outdoor sales lot area.
 - 2. Auto Repair. Two (2) spaces per serving bay; the service bay is not a parking space, plus one (1) for each employee on the maximum shift.
 - 3. Boarding House. At least one and one-half (1½) parking spaces per boarding room.
 - 4. Bowling Alleys. Five (5) spaces for each alley plus additional spaces for related uses.
 - 5. Car Washes (Drive Through and Self Service). One (1) space per employee plus: Drive through: Six (6) stacking spaces. Self-service: One (1) stacking space per wash bay.

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6. Places of Worship. At least one (1) parking space for each four (4) seats based on the design capacity of the main assembly hall, plus one (1) space for each church employee. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Ordinance.
7. Community Centers, Libraries, Private Clubs, Lodges, Museums, Art Galleries. One (1) space for each three hundred (300) square feet of floor area in the principal structure.
8. Contractors' Offices, Shops and Yards. One (1) per 1,000 square feet of shop area or warehousing, plus one (1) per 300 square feet of office space.
9. Day Care Facilities.
 - a. Day care facilities serving fourteen (14) or fewer persons. In addition to residential parking requirements, one (1) space per seven (7) children capacity.
 - b. All other day care facilities. One (1) space per teacher on the largest shift, plus one (1) space per ten (10) students/children based on maximum capacity of the facility.
10. Elderly (Senior Citizen) Housing. Reservation of area equal to one (1) parking space per unit. Initial development is, however, required of only one-half (½) 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 conductive 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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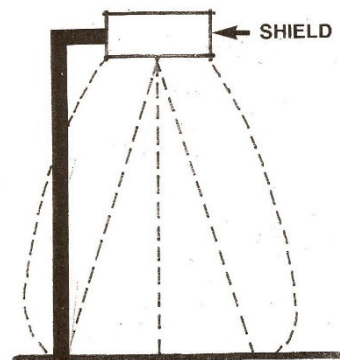
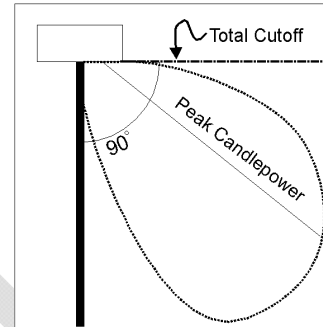
22. **Family.** Two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.
23. **Farm.** Real property used for commercial agriculture 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				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	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			C	
Single Family Detached Dwelling Unit	515-4-2	P	P	P	P	P	P	P	P			C				C	
Single Family Attached Dwelling Unit (2-4 Units)	515-4-2				P	P	P	P	P			PC	PC			C	
COMMERCIAL/GENERAL BUSINESS USES																	
Adult Establishments and/or Uses	515-3-4														C		

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Animal hospital, veterinary clinic, or kennels	515-3-5							C	C	C	C			C	C		
Armories										C					P		
Auto dealership	515-3-6									C	C			C	C		
Bed and breakfasts	515-3-9	C	C	C	C	C	C	C	C			C	C				
Boarding houses						C		C	C								
Brew Pub/Brewery (off-sale, on-sale, taproom, tasting room, etc.), cidery, microdistillery, cocktail room	515-3-10							C	C	C	C	C	C	P	P		
Car wash accessory to motor vehicle sales	515-3-13									P	P			P	P		
Commercial animal kennels	515-3-5	C	C												C		
Commercial car washes (drive-up, mechanical and self service)	515-3-13									C	C				C		
Commercial day care facilities	515-3-14	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
Commercial greenhouses supporting the operations of a restaurant or floral shop	515-3-15							I	I	I	I	I	I				
Commercial riding stables	515-3-16	C															
Commercial/Retail establishments								P	P	P	P	P	P	P			
Commercial laundry facilities								C	C	P	P			P			
Drive-through business	515-3-17							C	C	P	P	C					
Contractor offices										C	C			P	P		
Cultural facilities such as museums, art centers, or art institute								P	P	P	P	P	P	P		P	
Drive-through Businesses	515-3-17								C	P	P	C					
Financial Institutions such as banks and credit unions										P	P	P	P				
Food Trucks (Transient food unit)	515-3-39									AP	AP	AP	AP	AP	AP	AP	AP
Funeral homes, mortuaries								C	C	C	C	C		C			

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Health clubs/Gyms/Indoor Recreation Facilities								P	P	P	P	P	P	P	P	P	
Hospitality businesses limited to hotels, motels, conference/convention/reception facilities	515-3-20							C	P	P	P	P	P				
Hospitality businesses – extended stay	515-3-20																
Liquor sales, on sale										P	P	P	P	P	P		
Liquor sales, off sale								P	P	P	P	P	P	P	P		
Motor vehicle fuel sales	515-3-24							C	C	C	C	C			C		
Nurseries, greenhouses (commercial)	515-3-15	P	P					C	C	C	C			C	C		
Nursing homes & similar group housing	515-3-25					C		C	C	C	C						
Off street parking lots or parking garages (as principal use)	515-3-30 515-4-12							C	C	C	C	C	C				
Office businesses – (general use, medical clinic)								C	C	P	P	P	P	P			
Outdoor dining facilities accessory to a restaurant	515-3-27							AP	AP	AP	AP	AP	AP				
Parking Lots	515-3-30							C	C	C	C	C	C	C	C	C	
Pawn shops								P	P	P	P	P	P	P			
Personal services such as barber/beauty shop, nail salon, tanning salon, therapeutic massage and spas.								P	P	P	P	P	P	P			
Private clubs & lodges								C	C	C	C	C	C	C			
Recreation Centers (large health clubs, gyms, etc.) exceeding 30,000 SF										C				C	P		
Restaurants – sit down, take out or delivery (no drive-up window)								P	P	P	P	P	P				
Retail businesses contained within a principal building								P	P	P	P	P	P	P			
Seasonal Merchandise Sales include fruit/vegetables, Christmas trees, plants and										AP	AP	AP					

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ancillary products in which less than one half of the product retailed is initially planted and raised therein																	
Senior center						C		C	C	C	C	C					
Short term rentals (VRBO, Air BnB, etc.)	515-3-34	I	I	I	I	I	I	I	I			I	I				
Signs	515-3-35	See Section 515-3-35 for Permit Requirements															
Specialty food shops	55-3-36							P	P	P	P	P	P				
State licensed residential facilities (serving 7-16 persons)						C		C	C	C	C						
Studios – art, dance, music, design, photography, etc								C	C	P	P	P	P				
Taxi or bus dispatch sites										P	P			P	P		
Telecommunication towers	515-3-42													AP	AP		
Temporary mobile towers.	515-3-42													AP	AP		
Temporary roadside stands		P	P	P													
Temporary/seasonal outdoor promotional events and sales	515-3-38							AP	AP	AP	AP	AP	AP	AP			
Theaters – except drive-in										P	P	P	P				
PUBLIC/SEMI-PUBLIC USES																	
Boarding Schools								C	C	C	C	C					
Business or trade school when conducted entirely within a building								C	C	P	P	C	C				
Cemeteries																C	
Colleges and universities										C	C					P	
Government & public buildings (including utility buildings and structures)			C	C	C	C	C	C	C	P	P	P	P	P	P	P	P
Hospitals						C		C	C	C	C					P	

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Forest and game management areas		C														P	P
Places of worship & related buildings		C	C	C	C	C	C	C	C	P	P	C	C	P	P	P	
Public & private schools		C	C	C	C	C	C	C	C	C	C	C		C	C	P	
Public recreation areas and buildings		P	P	P	P	P	P	P	P			C	C			P	
Public, semi-public recreational buildings, community centers		C	C	C	C	C	C	C	C			C	C			P	
Temporary classroom buildings (public or private schools)					I	I	I	I	I							I	
Trade/specialty schools.														C	C		
Warming shelters	515-3-41									I	I	I		I		I	
INDUSTRIAL AND UTILITY USES																	
Auto wrecking or salvage yard, junk yard, used auto parts, and similar uses.	515-3-8														C		
Automobile and truck repair – major and minor (including body shops)	515-3-7									C	C	C		C	C		
Billboard signs	515-3-35													I	I		
Bulk liquid storage (including crude oil, gasoline, liquid fertilizer, or other liquid storage)	515-3-11														C		
Coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing.	515-3-12														C		
Commercial/retail sales accessory to the principal manufacture, processing or wholesaling of products manufactured on, processed on or wholesaled from the premises.														P	P		
Commercial stockyards and slaughtering of animals provided that the use complies with all Federal regulations including USDA rules and regulations.															C		
Machine shops; paper products from previously processed paper; electronics assembly and														P	P		

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testing; commercial printing and publishing establishments; laundry, dry cleaning or dying plants; food/beverage processing; cosmetics/toiletries; drugs and pharmaceuticals; beverage bottling; recycling center; woodworking (indoors)																	
Construction equipment sales and repair										C				P	P		
Electrical/Plumbing/Heating/Air Conditioning products and parts										C				P	P		
Equipment rental (indoor)										P	P			P	P		
Essential services	515-3-18	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Kilns, forges or other heat processes fired by means other than electricity.															C		
Light manufacturing										C	C			P	P		
Metal Sales such as steel and other raw materials														P	P		
Mini self-storage facilities.	515-3-21														C		
Mining and extraction	515-3-22	I															
Outdoor service, sales and rental as a principal or accessory use.	515-3-28													C	C		
Outdoor storage accessory to a principal use with enclosed building.	515-2-26									C				C	P		
Outdoor storage as a principal use	515-2-26														I		
Personal wireless service towers	515-3-42	C	C	C	C	C	C	C	C	AP	AP	AP	AP	AP	AP		
Outdoor wood burning furnaces, placement and operation	515-3-29														C		
Radio & television antennas	515-3-42	AP	AP	AP	AP	AP	AP	AP	AP								
Radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter, short-wave	515-3-42									AP	AP	AP	AP	AP	AP		

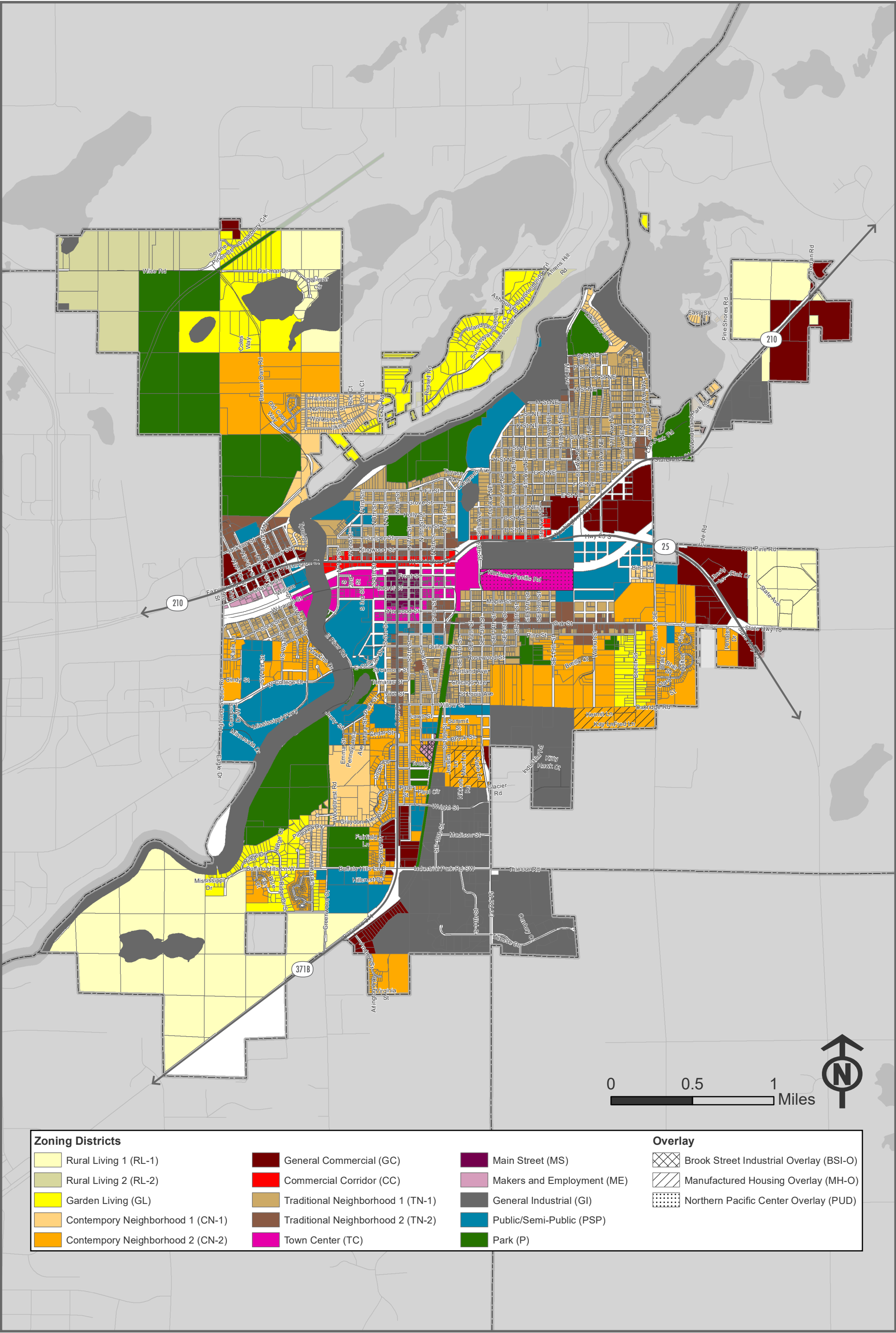
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dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers																	
Radio and television studios										C	C			P	P		
Sale of parts and sale and repair of tires for construction equipment and semi tractor trailers														P	P		
Sales and distribution of propane, acetylene, helium, CO2 and similar tanks															P		
Refuse/garbage collection, recycling and incineration	515-3-32														C		
Regional pipelines		C												C	C		
Research and development laboratories														P	P		
Residence for night watchman or other security personnel														AP	AP		
Self-service laundromat with dry cleaning pick up and drop off								C	C	P	P	P		P			
Small engine and boat repair								C	C	C	C			P	P		
Solar energy systems, structures		AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP	AP		
Storage, utilization or manufacture of materials which could decompose by detonation, including but not limited to dynamite, trinitrotoluene (TNT), nitroglycerine, guncotton, blasting caps and cartridge primers.	515-3-37														C		
Testing labs for water and soil, rocks/minerals and air quality										P	P			P	P		
Tire vulcanizing and recapping.															P		
Truck and semi-tractor/trailer sales and repair	515-3-7													C	P		
Truck terminals.	515-3-40														C		

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
Warehousing, distribution facilities and wholesale businesses.														C	P		
Wind energy conversion system		I	I												I		





Brainerd City Council Agenda Request

Requested Meeting Date: July 5, 2022

Title of Item: Update on Ward 1 Appointment

☐ 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: At the May 16, 2022 Council meeting, the Council accepted Member Pritschet's resignation effective July 31, 2022, to open filings for a special election in the 2022 election cycle, and to accept applications for the vacancy from May 17 - July 8, 2022, with an appointment to be made at the July 18, 2022 Council meeting. The appointment will be effective from August 1 - December 31, 2022. To date, one application has been received and two more applications provided but not returned. In the past, Council has called a special meeting for the purpose of interviewing and have done the appointment at the special meeting.	
Alternatives, Options, Effects on Others/Comments: Staff is seeking Council direction on how Council would like to handle the appointment process. This process is unique in that the application period has not closed yet, so the number of applicants is not known at this point and time, and the motion on May 16, 2022 stated the appointment would take place at the July 18, 2022 regular Council meeting, allowing a week between the close of the application period and the Council meeting. Options if the City receives more than one application: * Call for a special Council meeting Wednesday, July 13 at 6:00 p.m. to conduct interviews of the candidates for the Ward 1 vacancy. * Allow Staff to set the interviews of candidates starting at 7:00 p.m. on July 18, 2022, or earlier if deemed necessary. * Conduct interviews of candidates during the July 18, 2022 Council meeting.	
Recommended Action/Motion: Direction from Council on how to proceed with the appointment of the vacancy in Ward 1.	
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>	