

**BRAINERD ZONING
ORDINANCE**

FINAL DRAFT

March 2009

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1 – TITLE AND APPLICATION	
515-1-1: Title and Application.....	1-1
515-1-2: Intent and Purpose.....	1-1
515-1-3: Relation to Comprehensive Plan.....	1-2
515-1-4: Minimum Requirements.....	1-2
515-1-5: Conformance with this Ordinance.....	1-2
515-1-6: Uses Not Provided for in this Ordinance.....	1-3
515-1-7: Separability.....	1-3
515-1-8: Schedule of Fees, Charges and Expenses.....	1-3
515-1-9: Authority.....	1-4
515-1-10: Zoning Coordination.....	1-4
SECTION 2 – RULES AND DEFINITIONS	
515-2-1: Rules.....	2-1
515-2-2: Definitions.....	2-1
SECTION 3 – ADMINISTRATION – ENFORCEMENT AND APPEALS	
515-3-1: Enforcing Officer.....	3-1
515-3-2: Violations, Penalties and Enforcement.....	3-1
515-3-3: Board of Zoning Appeals.....	3-3
515-3-4: Appeal Procedures.....	3-3
SECTION 4 – ADMINISTRATION – AMENDMENTS (TEXT AND MAP)	
515-4-1: Amendments to Zoning Ordinance.....	4-1
515-4-2: Procedure.....	4-1
SECTION 5 – ADMINISTRATION – CONDITIONAL USE PERMITS	
515-5-1: Purpose and Intent.....	5-1
515-5-2: Procedure.....	5-1
515-5-3: Information Requirement.....	5-6
515-5-4: Cancellation of Conditional Use Permits.....	5-9
515-5-5: Performance Security.....	5-10
SECTION 6 – ADMINISTRATION – INTERIM USES	
515-6-1: Purpose and Intent.....	6-1
515-6-2: Procedure.....	6-1
515-6-3: General Standards.....	6-1
515-6-4: Termination.....	6-2
515-6-5: Cancellation of Interim Use Permits.....	6-2

TABLE OF CONTENTS

	<u>Page</u>
SECTION 7 – ADMINISTRATION – VARIANCES	
515-7-1: Purpose and Intent.....	7-1
515-7-2: General Provisions and Evaluation Criteria.....	7-1
515-7-3: Procedure.....	7-2
515-7-4: Lapse of Variance.....	7-3
515-7-5: Performance Security.....	7-4
SECTION 8 – ADMINISTRATION – PERMITS AND CERTIFICATES OF OCCUPANCY	
515-8-1: Building Permits.....	8-1
515-8-2: Application for Permit Within a Flood Zone.....	8-1
515-8-3: Certificate of Zoning Compliance.....	8-1
SECTION 9 – ADMINISTRATION – ADMINISTRATIVE PERMITS	
515-9-1: Purpose.....	9-1
515-9-2: Procedure.....	9-1
515-9-3: Information Requirement.....	9-2
515-9-4: Performance Standards.....	9-3
515-9-5: Administration and Enforcement.....	9-3
SECTION 10 – ADMINISTRATION – SITE AND BUILDING PLAN	
515-10-1: Purpose and Intent.....	10-1
515-10-2: Council Action.....	10-1
515-10-3: Approval Required.....	10-1
515-10-4: Exceptions to Review.....	10-1
515-10-5: Information Requirement.....	10-2
515-10-6: Plan Agreements.....	10-5
515-10-7: Enforcement.....	10-5
SECTION 11 – ADMINISTRATION – PLANNED UNIT DEVELOPMENT (PUD)	
515-11-1: Purpose and Intent.....	11-1
515-11-2: PUD Types.....	11-2
515-11-3: General Standards and Requirements.....	11-2
515-11-4: General Standards for Common Open Space.....	11-4
515-11-5: Conveyance and Maintenance of Common Open Space.....	11-5
515-11-6: Enforcement of Development Schedule/Staging of PUD.....	11-5
515-11-7: Residential Density.....	11-6
515-11-8: Residential PUD/CUP Requirements.....	11-6
515-11-9: Commercial and Industrial PUD/CUP Requirements.....	11-7
515-11-10: Procedure for Processing a PUD.....	11-7
515-11-11: General Concept Plan.....	11-8
515-11-12: Development Stage Plan.....	11-12
515-11-13: Final Plan.....	11-15

TABLE OF CONTENTS

	<u>Page</u>
515-11-14: Coordination with Subdivision Resolution Regulations.....	11-17
515-11-15: PUD Review and Amendments.....	11-17
 SECTIONS 12-14 RESERVED	
 SECTION 15 - NON-CONFORMING LOTS, BUILDINGS, STRUCTURES AND USES	
515-15-1: Purpose.....	15-1
515-15-2: General Provisions.....	15-1
515-15-3: Non-Conforming Uses.....	15-2
515-15-4: Non-Conforming Buildings and Structures.....	15-2
515-15-5: Non-Conforming Lots.....	15-2
 SECTION 16 – LOT AND YARD PROVISIONS	
515-16-1: Purpose and Intent.....	16-1
515-16-2: Minimum Lot Area Requirements.....	16-1
515-16-3: Building Placement and Multiple Structures.....	16-2
515-16-4: Yards.....	16-2
515-16-5: Setbacks.....	16-2
515-16-6: Permitted Yard Encroachments.....	16-3
515-16-7: Zero Lot Line Subdivisions.....	16-4
 SECTION 17 – GENERAL BUILDING, USE, AND DESIGN PROVISIONS	
515-17-1: Purpose and Intent.....	17-1
515-17-2: Dwelling Unit Restriction.....	17-1
515-17-3: Building Design Standards.....	17-1
515-17-4: Height.....	17-5
515-17-5: High Water Elevation.....	17-6
515-17-6: Ground Water Elevation.....	17-6
515-17-7: Accessory Buildings, Uses and Equipment.....	17-7
 SECTION 18 – OUTDOOR LIGHTING	
515-18-1: Purpose and Intent.....	18-1
515-18-2: Exemptions.....	18-1
515-18-3: Non-Conforming Uses.....	18-1
515-18-4: Light Trespass.....	18-1
515-18-5: Performance Standards.....	18-2
515-18-6: Submission of Plans.....	18-3

TABLE OF CONTENTS

	<u>Page</u>
SECTION 19 - FENCES	
515-19-1: Permit Required.....	19-1
515-19-2: Exemptions.....	19-1
515-19-3: Site Plan.....	19-1
515-19-4: Location.....	19-1
515-19-5: Construction and Maintenance.....	19-2
515-19-6: Access.....	19-2
515-19-7: Height.....	19-2
 SECTION 20 – LANDSCAPING, GREEN SPACE AND SCREENING REQUIREMENTS	
515-20-1: Purpose and Intent.....	20-1
515-20-2: Minimum Requirements.....	20-1
515-20-3: General Landscaping.....	20-1
515-20-4: Green Space.....	20-2
515-20-5: Screening.....	20-2
515-20-6: One and Two Family Lots.....	20-4
515-20-7: Multiple Family Developments.....	20-4
515-20-8: Non-Residential Uses.....	20-4
515-20-9: Parking Lots.....	20-5
515-20-10: Screening of Equipment.....	20-6
515-20-11: Installation and Maintenance.....	20-6
515-20-12: Suggested Trees.....	20-7
 SECTION 21 – TREE PRESERVATION	
515-21-1: Purpose and Intent.....	21-1
515-21-2: Definitions.....	21-1
515-21-3: Tree Preservation Plan.....	21-3
515-21-4: Allowable Tree Removal.....	21-7
515-21-5: Tree Replacement Schedule.....	21-8
515-21-6: Prohibited Actions.....	21-9
 SECTION 22 – PARKING	
515-22-1: Purpose and Intent.....	22-1
515-22-2: Application of Off-Street Parking Requirements.....	22-1
515-22-3: General Provisions.....	22-1
515-22-4: Access and Driveway Design.....	22-3
515-22-5: Parking Surface Design Standards.....	22-4
515-22-6: Maintenance.....	22-6
515-22-7: Location.....	22-6
515-22-8: Number of Spaces Required.....	22-7
515-22-9: Parking Deferment.....	22-10

TABLE OF CONTENTS

	<u>Page</u>
515-22-10: Joint Facilities.....	22-11
515-22-11: Off-Site Parking.....	22-12
 SECTION 23 – OFF-STREET LOADING	
515-23-1: Purpose and Intent.....	23-1
515-23-2: Location.....	23-1
515-23-3: Surfacing.....	23-1
515-23-4: Accessory Use, Parking and Storage.....	23-2
515-23-5: Screening.....	23-2
515-23-6: Size.....	23-2
 SECTION 24 – OUTDOOR STORAGE	
515-24-1: Purpose and Intent.....	24-1
515-24-2: Residential Zoning Districts.....	24-1
515-24-3: Commercial and Industrial Zoning Districts.....	24-2
515-24-4: All Zoning Districts.....	24-2
 SECTION 25 – RESERVED	
 SECTION 26 – HOME BUSINESSES AND HOME EXTENDED BUSINESSES	
515-26-1: Purpose and Intent.....	26-1
515-26-2: Application.....	26-1
515-26-3: Procedures and Permits.....	26-1
515-26-4: Requirements-General Provisions.....	26-2
515-26-5: Inspection.....	26-3
515-26-6: Revocations.....	26-3
 SECTION 27 – MODEL HOMES	
515-27-1: Purpose and Intent.....	27-1
515-27-2: Procedure.....	27-1
515-27-3: Special Requirements.....	27-1
 SECTION 28 – RESERVED	
 SECTION 29 – COMMERCIAL DAY CARE FACILITIES	
515-29-1: Purpose and Intent.....	29-1
515-29-2: Application.....	29-1
515-29-3: Declaration of Conditions.....	29-1
515-29-4: Site Plan Drawing Necessary.....	29-1
515-29-5: General Provisions.....	29-1
515-29-6: Non-Conforming Use.....	29-2
515-29-7: Inspection.....	29-2

TABLE OF CONTENTS

	<u>Page</u>
SECTION 30 – MINING AND EXTRACTION	
515-30-1: Purpose and Intent.....	30-1
515-30-2: Administration.....	30-1
515-30-3: Information Requirement.....	30-2
515-30-4: Performance Standards.....	30-3
515-30-5: Land Rehabilitation.....	30-4
 SECTION 31 – BED AND BREAKFASTS	
515-31-1: Purpose and Intent.....	31-1
515-31-2: Conditional Use.....	31-1
 SECTION 32 – RESERVED	
 SECTION 33 – ADULT ESTABLISHMENTS	
515-33-1: Purpose and Intent.....	33-1
515-33-2: Provisions.....	33-3
515-33-3: Application of this Ordinance.....	33-3
515-33-4: Location.....	33-3
515-33-5: Hours of Operation.....	33-4
515-33-6: Operation.....	33-4
515-33-7: Licenses.....	33-5
515-33-8: Fees.....	33-8
515-33-9: Inspection.....	33-10
515-33-10: Expiration and Renewal.....	33-10
515-33-11: Suspension.....	33-10
515-33-12: Revocation.....	33-11
515-33-13: Procedures.....	33-12
515-33-14: Transfer of License.....	33-13
515-33-15: Severability.....	33-13
515-33-16: Effective.....	33-13
 SECTION 34 – WIND ENERGY CONVERSION SYSTEMS (WECS)	
515-34-1: Purpose and Intent.....	34-1
515-34-2: Application.....	34-1
515-34-3: Declaration of Conditions.....	34-2
515-34-4: Site Plan Drawing.....	34-2
515-34-5: Compliance with State Building Code.....	34-3
515-34-6: Compliance with National Electrical Code.....	34-3
515-34-7: Manufacturer Warranty.....	34-3
515-34-8: Design Standards.....	34-3
515-34-9: Ornamental Wind Devices.....	34-5

TABLE OF CONTENTS

	<u>Page</u>
515-34-10: Building Permit Required.....	34-5
515-34-11: Inspection.....	34-5
515-34-12: Abandonment.....	34-5
 SECTION 35 – ANTENNAS AND TOWERS	
515-35-1: Purpose and Intent.....	35-1
515-35-2: General Standards.....	35-1
515-35-3: Certification, Inspection and Maintenance.....	35-2
515-35-4: Tower Design.....	35-3
515-35-5: Co-Location Requirement.....	35-3
515-35-6: Accessory Antennas.....	35-3
515-35-7: Personal Wireless Service Antennas.....	35-4
515-35-8: Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas.....	35-6
 SECTION 36 – ESSENTIAL SERVICES	
515-36-1: Purpose and Intent.....	36-1
515-36-2: Procedural Requirements.....	36-1
515-36-3: Installation Requirements.....	36-1
515-36-4: Conditional Use Permit Required.....	36-2
 SECTIONS 37 – SIGNS	
515-37-1: Purpose and Intent.....	37-1
515-37-2: Effect.....	37-1
515-37-3: Severability.....	37-2
515-37-4: Permit Required.....	37-2
515-37-5: Permit Not Required.....	37-3
515-37-6: Prohibited Signs.....	37-5
515-37-7: Violations.....	37-5
515-37-8: Substitution.....	37-6
515-37-9: General Regulations.....	37-6
515-37-10: District Regulations.....	37-8
515-37-11: Non-Conforming Signs.....	37-12
 SECTIONS 38-49 – RESERVED	
 SECTION 50 – ZONING DISTRICTS AND DISTRICT PROVISIONS	
515-50-1: Establishment of Zoning Districts.....	50-1
515-50-2: Zoning District Boundaries.....	50-2
515-50-3: Zoning Map.....	50-2
515-50-4: Annexations.....	50-3

TABLE OF CONTENTS

	<u>Page</u>
SECTION 51 – R-A, RURAL AGRICULTURAL DISTRICT	
515-51-1: Purpose and Intent.....	51-1
515-51-2: Permitted Uses.....	51-1
515-51-3: Accessory Uses.....	51-1
515-51-4: Interim Uses.....	51-2
515-51-5: Conditional Uses.....	51-2
515-51-6: Uses by Administrative Permit.....	51-3
515-51-7: Lot Area and Setback Requirements.....	51-4
515-51-8: Building Height.....	51-4
515-51-9: Lot Coverage.....	51-4
SECTION 52 – R-R, RURAL RESIDENTIAL DISTRICT	
515-52-1: Purpose and Intent.....	52-1
515-52-2: Permitted Uses.....	52-1
515-52-3: Accessory Uses.....	52-1
515-52-4: Interim Uses.....	52-2
515-52-5: Conditional Uses.....	52-2
515-52-6: Uses by Administrative Permit.....	52-3
515-52-7: Lot Area and Setback Requirements.....	52-3
515-52-8: Building Height.....	52-4
515-52-9: Building Performance Standards.....	52-4
515-52-10: Lot Coverage.....	52-5
SECTION 53 – R-E, SINGLE FAMILY ESTATE RESIDENTIAL DISTRICT	
515-53-1: Purpose and Intent.....	53-1
515-53-2: Permitted Uses.....	53-1
515-53-3: Accessory Uses.....	53-1
515-53-4: Interim Uses.....	53-2
515-53-5: Conditional Uses.....	53-2
515-53-6: Uses by Administrative Permit.....	53-3
515-53-7: Lot Area and Setback Requirements.....	53-3
515-53-8: Building Height.....	53-4
515-53-9: Building Performance Standards.....	53-4
515-53-10: Lot Coverage.....	53-4
SECTION 54 – R-1A, SINGLE FAMILY RESIDENTIAL DISTRICT	
515-54-1: Purpose and Intent.....	54-1
515-54-2: Permitted Uses.....	54-1
515-54-3: Accessory Uses.....	54-1
515-54-4: Interim Uses.....	54-2
515-54-5: Conditional Uses.....	54-2
515-54-6: Uses by Administrative Permit.....	54-4
515-54-7: Lot Area and Setback Requirements.....	54-4

TABLE OF CONTENTS

	<u>Page</u>
515-54-8: Building Height.....	54-4
515-54-9: Building Performance Standards.....	54-5
515-54-10: Lot Coverage.....	54-5
SECTION 55 – R-1, TRADITIONAL SINGLE FAMILY RESIDENTIAL DISTRICT	
515-55-1: Purpose and Intent.....	55-1
515-55-2: Permitted Uses.....	55-1
515-55-3: Accessory Uses.....	55-1
515-55-4: Interim Uses.....	55-2
515-55-5: Conditional Uses.....	55-2
515-55-6: Uses by Administrative Permit.....	55-4
515-55-7: Lot Area and Setback Requirements.....	55-4
515-55-8: Building Height.....	55-4
515-55-9: Building Performance Standards.....	55-4
515-55-10: Lot Coverage.....	55-5
SECTION 56 – R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT	
515-56-1: Purpose and Intent.....	56-1
515-56-2: Permitted Uses.....	56-1
515-56-3: Accessory Uses.....	56-1
515-56-4: Interim Uses.....	56-2
515-56-5: Conditional Uses.....	56-2
515-56-6: Uses by Administrative Permit.....	56-5
515-56-7: Lot Area and Setback Requirements.....	56-5
515-56-8: Building Height.....	56-6
515-56-9: Building Performance Standards.....	56-6
515-56-10: Lot Coverage.....	56-7
SECTION 57 – R-3, HIGH DENSITY RESIDENTIAL DISTRICT	
515-57-1: Purpose and Intent.....	57-1
515-57-2: Permitted Uses.....	57-1
515-57-3: Accessory Uses.....	57-1
515-57-4: Interim Uses.....	57-2
515-57-5: Conditional Uses.....	57-2
515-57-6: Uses by Administrative Permit.....	57-5
515-57-7: Lot Area and Setback Requirements.....	57-5
515-57-8: Building Height.....	57-5
515-57-9: Building Performance Standards.....	57-6
515-57-10: Lot Coverage.....	57-6

TABLE OF CONTENTS

	<u>Page</u>
SECTION 58 – R-MH, MANUFACTURED HOUSING DISTRICT	
515-58-1: Purpose and Intent.....	58-1
515-58-2: Permitted Uses.....	58-1
515-58-3: Accessory Uses.....	58-1
515-58-4: Design and Operational Standards.....	58-1
515-58-5: Registration.....	58-7
515-58-6: Maintenance.....	58-8
 SECTION 59 – RESERVED	
 SECTION 60 – B-1, RESIDENTIAL OFFICE DISTRICT	
515-60-1: Purpose and Intent.....	60-1
515-60-2: Permitted Uses.....	60-1
515-60-3: Accessory Uses.....	60-1
515-60-4: Uses by Administrative Permit.....	60-2
515-60-5: Interim Uses.....	60-2
515-60-6: Conditional Uses.....	60-2
515-60-7: Lot Area and Setback Requirements.....	60-3
515-60-8: Building Height.....	60-3
515-60-9: Exterior Building Standards.....	60-3
 SECTION 61 – B-2, NEIGHBORHOOD BUSINESS DISTRICT	
515-61-1: Purpose and Intent.....	61-1
515-61-2: Permitted Uses.....	61-1
515-61-3: Accessory Uses.....	61-2
515-61-4: Uses by Administrative Permit.....	61-2
515-61-5: Interim Uses.....	61-3
515-61-6: Conditional Uses.....	61-3
515-61-7: Lot Area and Setback Requirements.....	61-8
515-61-8: Building Height.....	61-8
515-61-9: Exterior Building Standards.....	61-8
 SECTION 62 – B-3, CENTRAL BUSINESS DISTRICT	
515-62-1: Purpose and Intent.....	62-1
515-62-2: Permitted Uses.....	62-1
515-62-3: Accessory Uses.....	62-2
515-62-4: Uses by Administrative Permit.....	62-3
515-62-5: Interim Uses.....	62-3
515-62-6: Conditional Uses.....	62-3
515-62-7: Lot Area and Setback Requirements.....	62-5
515-62-8: Building Height.....	62-5
515-62-9: Exterior Building Standards.....	62-5
515-62-10: Residential Restriction.....	62-5

TABLE OF CONTENTS

	<u>Page</u>
SECTION 63 – B-4, GENERAL BUSINESS DISTRICT	
515-63-1: Purpose and Intent.....	63-1
515-63-2: Permitted Uses.....	63-1
515-63-3: Accessory Uses.....	63-2
515-63-4: Uses by Administrative Permit.....	63-3
515-63-5: Interim Uses.....	63-4
515-63-6: Conditional Uses.....	63-4
515-63-7: Lot Area and Setback Requirements.....	63-12
515-63-8: Building Height.....	63-12
515-63-9: Exterior Building Standards.....	63-12
SECTION 64 – B-5, COMMERCIAL AMUSEMENT DISTRICT	
515-64-1: Purpose and Intent.....	64-1
515-64-2: Permitted Uses.....	64-1
515-64-3: Accessory Uses.....	64-1
515-64-4: Interim Uses.....	64-2
515-64-5: Conditional Uses.....	64-3
515-64-6: Lot Area and Setback Requirements.....	64-5
515-64-7: Building Height.....	64-5
515-64-8: Exterior Building Standards.....	64-5
SECTION 65 – B-6, WASHINGTON STREET COMMERCIAL DISTRICT	
515-65-1: Purpose and Intent.....	65-1
515-65-2: Permitted Uses.....	65-1
515-65-3: Accessory Uses.....	65-2
515-65-4: Uses by Administrative Permit.....	65-3
515-65-5: Interim Uses.....	65-4
515-65-6: Conditional Uses.....	65-4
515-65-7: Minimum Lot Area Requirements.....	65-9
515-65-8: Minimum Yards and Setbacks.....	65-9
515-65-9: Maximum Lot Coverage.....	65-9
515-65-10: Maximum Building Height.....	65-9
515-65-11: Building Design and Construction.....	65-9
515-65-12: Off-Street Parking and Loading.....	65-10
SECTIONS 66-69 – RESERVED	
SECTION 70 – I-1, LIGHT INDUSTRY DISTRICT	
515-70-1: Purpose and Intent.....	70-1
515-70-2: Permitted Uses.....	70-1
515-70-3: Accessory Uses.....	70-2
515-70-4: Interim Uses.....	70-3
515-70-5: Conditional Uses.....	70-4

TABLE OF CONTENTS

	<u>Page</u>
515-70-6: Uses by Administrative Permit.....	70-7
515-70-7: Lot Area and Setback Requirements.....	70-7
515-70-8: Building Height.....	70-7
515-70-9: Building Requirements.....	70-8
 SECTION 71 – I-2, GENERAL INDUSTRY DISTRICT	
515-71-1: Purpose and Intent.....	71-1
515-71-2: Permitted Uses.....	71-1
515-71-3: Accessory Uses.....	71-2
515-71-4: Interim Uses.....	71-2
515-71-5: Conditional Uses.....	71-2
515-71-6: Uses by Administrative Permit.....	71-5
515-71-7: Lot Area and Setback Requirements.....	71-5
515-71-8: Building Height.....	71-5
515-71-9: Building Requirements.....	71-6
 SECTIONS 72-74 - RESERVED	
 SECTION 75 – PUD, PLANNED UNIT DEVELOPMENT DISTRICT	
515-75-1: Purpose and Intent.....	75-1
515-75-2: Application.....	75-1
515-75-3: Procedures.....	75-1
 SECTION 76 – FLOODPLAIN DISTRICTS	
515-76-1: Purpose and Intent.....	76-1
515-76-2: General Provisions.....	76-1
515-76-3: Establishment of Zoning Districts.....	76-2
515-76-4: Subdivisions.....	76-2
515-76-5: Utilities, Railroads, Roads and Bridges.....	76-2
515-76-6: Floodplain Permit.....	76-3
515-76-7: Non-Conforming Uses.....	76-4
515-76-8: Amendments.....	76-4
515-76-9: Extent of Districts.....	76-4
 SECTION 77 – FW, FLOODWAY DISTRICT	
515-77-1: Purpose and Intent.....	77-1
515-77-2: Permitted Uses.....	77-1
515-77-3: Standards for Floodway Permitted Uses.....	77-1
515-77-4: Conditional Uses.....	77-1

TABLE OF CONTENTS

	<u>Page</u>
SECTION 78 – FF, FLOOD FRINGE DISTRICT	
515-78-1: Purpose and Intent.....	78-1
515-78-2: Permitted Uses.....	78-1
515-78-3: Accessory Uses.....	78-1
515-78-4: Conditional Uses.....	78-1

SECTION 1
TITLE AND APPLICATION

Section:	
515-1-1:	Title and Application
515-1-2:	Intent and Purpose
515-1-3:	Relation to Comprehensive Plan
515-1-4:	Minimum Requirements
515-1-5:	Conformance with this Ordinance
515-1-6:	Uses Not Provided for in This Ordinance
515-1-7:	Separability
515-1-8:	Schedule of Fees, Charges and Expenses
515-1-9:	Authority
515-1-10:	Zoning Coordination

515-1-1: Title. 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 use districts and establish regulations in regard to 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 right-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. Provide for amendments.
- N. Prescribe penalties for violation of such regulations.
- O. To define powers and duties of the City staff, the Planning Commission, the City Council and the Board of Zoning Appeals in relation to the Zoning Ordinance.

515-1-3: Relation 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 their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.
- 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.

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 nor 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: Uses Not Provided for Within This Ordinance. Whenever in any zoning district, 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.

515-1-7: Separability. It is hereby declared to be the intention that the several 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.

515-1-8: Schedule of Fees, Charges and Expenses.

- A. Fees and charges, as well as expenses incurred by the City for engineering, planning, attorney, and other services related to the processing of applications shall be established by Ordinance and collected by the Zoning Administrator for deposit in the City's accounts. Fees shall be established for Building Permits, Conditional Use Permits, zoning amendments, Variances, Planned Unit Developments, appeals, issuance of a Certificate of Occupancy, building relocations, home occupations, day care nursery facilities, land filling operations, land excavation/grading, essential services, wind energy systems, communication devices, review of site/building plans, parking plans, loading plans, and such other land use related procedures as the Council may from time to time establish. The City Council may also establish charges for public hearings, special meetings, or other such City Council or Planning Commission actions as are necessary to process applications.
- B. Such fees, charges and estimated expenses (as well as a deposit, if so required by the Zoning Administrator) shall be collected prior to City action on any application. All such applications shall be accompanied by a written statement provided by the applicant/landowner (when the applicant is not the same person or entity as the landowner, both the landowner and the applicant must sign the agreement) acknowledging that the applicant/landowner agrees to pay all applicable fees, charges and expenses as set by Ordinance as provided above, and which allows the City to assess

the above fees, charges and expenses against the landowner if such monies are not paid within thirty (30) days after a bill is sent to the applicant/landowner.

- C. These fees shall be in addition to building permit fees, inspection fees, trunk storm water facility costs, subdivision fees, charges, expenses and other such fees, charges and expenses currently required by the City or which may be established in the future.

515-1-9: Authority. This Chapter is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.363.

515-1-10: 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.

SECTION 2
RULES AND DEFINITIONS

Section:

515-2-1: Rules

515-2-2: Definitions

515-2-1: Rules. The language contained in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural and the plural the singular.
- B. The present tense includes the past and future tenses, and the future to the present.
- C. The word "shall" is mandatory, and the word "may" is permissive.
- D. The masculine gender includes the feminine and neuter genders.
- E. 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.
- F. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- G. In the event of conflicting provisions, the more restrictive provisions shall apply.
- H. For terminology not defined in this Section, the most current Merriam Webster's dictionary shall be used to define such terms.

515-2-2: Definitions. The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

Accessory Building, Structure or Use. A subordinate building, structure or use which is located on the same lot as the main building or use and which is reasonably necessary and incidental to the conduct of the primary use of such principal building or use.

Addition. A physical enlargement of an existing structure.

Adjacent. Having a common border.

Agricultural Building or Structure. Any building or structure, existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

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:

1. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
2. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
3. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
4. Tree farms.

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.

Alley. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

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.

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.

Antenna Related.

1. Personal Wireless Service. A device consisting of a metal, carbon, fiber, or other electromagnetically conducive rods or elements on a single supporting pole or other structure, and used for the transmission and reception of wireless communications including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services.
2. 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.

3. **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.
4. **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.
5. **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.
6. **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.
7. **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.
8. **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.
9. **Support Structure.** Any building or other structure other than a tower which can be used for location of antennas.
10. **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.
11. **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).

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.

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.

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".)

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.

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

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping 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.

Bluff. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

1. Part or all of the feature is located in a shoreland area.
2. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body.
3. 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.
4. The slope must drain toward the water body.

Board of Zoning and Appeals. Brainerd City Council.

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.

Buildable Land, Contiguous. Land area occurring within the property lines of a parcel or lot excluding wetlands, water bodies, one hundred (100) year flood fringe, transmission utility easements, or rights-of-way.

Builder. Any person or entity to which a building permit is issued for the construction of a single family residence.

Buffer Yard. A strip of land utilized to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights, or other impacts.

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.

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.

Building Line. A line measured across the width of the lot at the point where the principal structure is placed in accordance with setback provisions.

Building Setback. The minimum horizontal distance between the building and a lot line, or the ordinary high water mark of a stream, lake or river.

Business. Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

Caliper Inch. The diameter of replacement trees measured at a height of one (1) foot above the ground level.

Canopy. A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

Carport. An automobile shelter having two (2) or more sides open.

Cellar. A covered excavation, attached or unattached to the principal building, often used for storage or protection from dangerous windstorms.

City. City of Brainerd.

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.

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:

1. **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.
2. **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.
3. **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.
4. **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.
5. **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.
6. **Liquor Sales, Off-Sale.** Licensed sale of intoxicating beverages for consumption off site.
7. **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.
8. **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.
9. **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.

10. **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.
11. **Personal Service.** Personal services shall include the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, body art and therapeutic massage.
12. **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.
13. **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.
14. **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).
15. **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.
16. **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.

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.

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.

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.

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.

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.

Condominium. A multiple family dwelling or development containing individually owned dwelling units and 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.

Condominium Association. The community association that administers and maintains the common property and common elements of a condominium.

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.

Cooperative. A multi-unit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares of the total investment.

County. Crow Wing County, Minnesota.

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.

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.

Deck. Horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal building or use of the site and at any point extending above grade.

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.

Development. Individual lot single family resident development, single-phase development, and two-phase development as those terms are defined herein.

Diameter. The length of a straight line measured through the trunk of a tree at fifty-four (54) inches above the ground.

Diameter Inch. The diameter, in inches, of a tree measured at diameter breast heights (four one one-half [4½] feet from the uphill side of the existing ground level).

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.

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.

Drainageway. Any natural or artificial watercourse, trench, ditch, swale or similar depression into which surface water flows.

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.

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.

Driveway. A private roadway providing access for vehicles to a parking space, garage, dwelling or other buildings and structures.

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one family, two family and multiple family dwellings, but not including hotels, motels and boarding houses.

Dwelling, Accessory Apartment. One apartment dwelling unit located within an owner-occupied single family dwelling.

Dwelling, Efficiency Unit. A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

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 contain 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.

Dwelling, Multiple (Apartment). A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

Dwelling, Quadraminium. A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

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.

Dwelling, Townhouse. A one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

Dwelling, Two-Family. 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.

Dwelling Unit. 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.

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.

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.

Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Erect. Activity of constructing, building, raising, assembling, placing, affixing, attaching creating, painting, drawing or any other way of bringing into being or establishing.

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.

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.

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.

Façade, Building. The face of a building.

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.

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.

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.

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.

Filling. The act of depositing any rock, soil, gravel, sand or other material on a site.

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.

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.

Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with term "floodway fringe" used in the Flood Insurance Study for Brainerd.

Floodplain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Flood-Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

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:

1. Basement space if at least one-half ($\frac{1}{2}$) 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.
2. Elevator shafts and stairwells at each floor.
3. Floor space used for mechanical equipment where the structural head-room exceeds seven and one-half ($7 \frac{1}{2}$) feet, except equipment open or enclosed, located on the roof, i.e., bulkheads, water tanks and cooling towers.

4. Attic floor space where the structural head-room exceeds seven and one-half (7½) feet.
5. Interior balconies and mezzanines.
6. Enclosed porches, but not terraces, breezeways, and screened porches.
7. Accessory uses, other than floor space devoted exclusively to accessory off-street parking or loading.

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.

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.

Frontage. That boundary of a lot or parcel that abuts a private street or an existing or dedicated public street.

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 resident upon the premises.

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.

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.

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.

Green Space. Open, undeveloped land with natural vegetation.

Hardship. The same as that term is defined in Minnesota Statutes, Chapter 462.

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 dwelling.

Home Extended Businesses. Any lawful occupation or profession engaged within a dwelling unit, attached garage or detached accessory building by the owner and/or occupant.

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.

Hotel. 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.

Impervious Surface. An artificial or natural surface through which water, air or roots cannot penetrate.

Individual Lot Single Family Residence Development. The process where the construction of a new single family residence occurs on a single lot.

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).

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.

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 junkyard includes an auto-wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

Kennel, Commercial. Any structure or premises on which more than three (3) dogs or cats, of one species, over six (6) months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.

Kennel, 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.

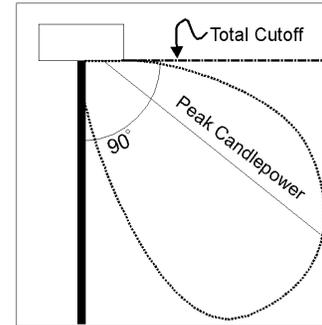
Land Reclamation. The process of the re-establishment of, acceptable topography (i.e., slopes), vegetative cover, soil stability, and the establishment of safe conditions appropriate to the subsequent use of the land.

Landscaping. To include, but not limited to plantings, trees, grass, ground cover (mulch and rock) and shrubs.

Lighting Related:

1. 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.

2. 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).



3. 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.

4. Flashing Light. A light source which is not constant in intensity or color at all times while in use.

5. 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.

6. Light Source. A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.

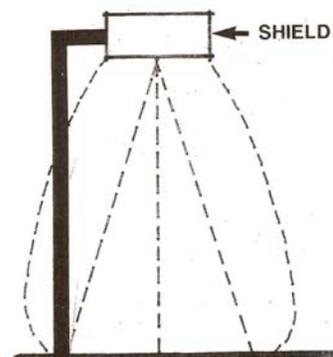
7. Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

8. 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.

9. 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.

10. Security Lighting. Outdoor lighting fixtures installed exclusively for the protection of property and public safety.

11. **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).



12. **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.

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.

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, WITH THE SAME OR SIMILAR USES WHICH FUNCTION AS ONE USE SHALL, ALONG WITH ANY ASSOCIATED ACCESSORY USES, BE CONSIDERED ONE LOT FOR ZONING PURPOSES.

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.”

Lot Area. The area of a lot in a horizontal plane bounded by the lot lines.

Lot, Corner. A lot situated at the junction of, and abutting on 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.

Lot Depth. The mean horizontal distance between the front lot line and the rear lot line of a lot.

Lot, Interior. A lot, other than corner lot, including through lots.

Lot Line. The property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the lot line shall be deemed to be the boundary of said public right-of-way.

Lot Line Front. That boundary of a lot which abuts an existing or dedicated public street, and 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.

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.

Lot Line Side. Any boundary of a lot which is not at the lot line or a rear lot line.

Lot Through. A lot which has a pair of opposite lot lines abutting 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.

Lot, Unit. Lots created from the subdivisions of a two family dwelling or townhome having different minimum lot size requirements than the conventional base lots within the zoning district.

Lot Width. The maximum horizontal distance between the side lot lines of a lot measured at the front setback line.

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.

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.

Mining. The extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand (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.

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.

Motel. A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit,

and which is designed, used or intended to be used exclusively for the accommodation of automobile travelers and other temporary guests.

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 zoning district in which such building or structure is located.

Non-Conforming Use, Legal. A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Non-Profit and Not-For-Profit Organization. An organization not commercial motivated and whose income is not used for the gain of persons with an interest in the organization, as designated by the Internal Revenue Service. Funds received by a non-profit must be used only in support of its mission and operations.

Nuisance. Anything defined as a nuisance by Section 2010 of the City Code.

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.

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.

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.

Official Zoning Map. The zoning map established by the City Council, in accordance with the Municipal Planning Act, (MSA 462), showing streets, highways and parks

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.

Open Space (Usable). Open areas, including parks, nature areas, playgrounds, and trails. This does not include holding ponds.

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.

Ordinance. Brainerd Zoning Ordinance.

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.

Owner. In the case of a lot, the legal owner of the lot as officially recorded by the County, and including fee owners, contract for deed purchasers and ground lessees. In the case of a sign, the owner of the sign including any lessees.

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, WITH THE SAME OR SIMILAR USES WHICH FUNCTION AS ONE USE SHALL, ALONG WITH ANY ASSOCIATED ACCESSORY USES, BE CONSIDERED ONE PARCEL FOR ZONING PURPOSES.**

Parking Lot. An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

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.

Party Wall. A common shared wall between two (2) separate structures, buildings, or dwelling units.

Pennant. See Banner.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

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.

Planning Commission. The Planning Commission of Brainerd.

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.

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.

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.

Property Line. The legal boundaries of a parcel of property.

Property Owner. 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.

Public Land. Land owned or operated by municipal, school district, county, state or other governmental units.

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.

Public Waters. As defined in Minnesota Statutes Section 103G.005, Subdivision 15:

1. Public Waters, General Development. Those waters whose shores are generally characterized by medium density residential development with or without limited service-oriented commercial development.
2. Public Waters, Natural Environment. Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.
3. Public Waters, Recreational Development. Generally medium sized lakes of varying depths and shapes with a variety of landform, soil and ground water situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year round residences and recreational-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

4. **Public Waters, Tributary Rivers.** Segments consisting of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Reclamation-Land. The improvement of land by deposition of material to elevate the grade. Any parcel upon which four hundred (400) cubic yards or more of fill are deposited shall be considered as reclaimed land.

Recreation Equipment. Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty (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 twenty-five (25) square feet of floor area, or sheds utilized for storage of equipment.

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.

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.

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 one hundred (100) year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

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.

Residential Facility, State Licensed. Any facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with a twenty-four (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.

Road. See "Street".

Setback. The minimum distance between a structure or sanitary facility and a road, highway or property line.

Sexually Oriented Activities Related Terms.

1. "Adult Establishment" means:
 - a. 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
 - b. Any business that engages in any adult use as defined in Subdivision 2 of this Section.
2. Adult Use. Any of the activities and businesses described below:
 - a. "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.
 - b. "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.

- c. "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.
- d. "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.
- e. "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.
- f. "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.
- g. "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.
- h. "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.
- i. "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.
- j. "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 Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.
- k. "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.

- l. "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.
 - m. "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.
 - n. "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.
 - o. "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.
3. "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; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 4. "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
- g. Human excretion, urination, menstruation, or vaginal or anal irrigation.

5. “Substantial or Significant Portion” means: twenty-five (25) percent or more.

Shopping Center. A group of commercial establishments built on a site which is planned and developed as an operating unit. Typically, the sharing of common space and services such as parking, maintenance and advertising exists.

Sign - Abandoned: Any sign and/or its supporting sign structure which remains without a message or whose display surface remains bland for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance also be subject to the definition of abandoned sign.

Sign – Awning Sign. A building sign or graphic printed on or in some fashion attached directly to the awning material.

Sign – Balloon Sign. A sign consisting of a bag made of lightweight material supported by helium, hot or pressurized air which is greater than twenty four (24) inches in diameter.

Sign – Banner Sign. A sign made of fabric or any non rigid material with no enclosing or supporting framework.

Sign – Bench Sign. Any sign located on the back of a courtesy bus bench placed on or adjacent to a public right-of-way.

Sign – Billboard. Any off premise sign having an area of more than three hundred (300) square feet.

Sign - Building Sign. Any sign attached or supported by any building.

Sign - Cabinet Sign. Any all sign that is not channel or individually mounted letter construction.

Sign - Canopy Sign. Any sign that is a part of or attached to a canopy made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

Sign - Changeable Copy Sign, Manual. A sign or portion thereof that has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects not consisting of an illumination device and may be changed or rearranged manually or mechanically with characters, illustrations, letters or numbers that can be changed or rearranged without altering the face or surface of the sign structure.

Sign - Changeable Copy Sign, Electric. A sign or portion thereof that displays electronic, non-pictorial text information in which each alphanumeric character, graphic, or symbol is 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. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or objects. Electronic changeable copy signs do not include official signs.

Sign - Changeable Copy Sign, Graphic. 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, re-pixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

Sign - Commercial Speech Signage. A sign advertising a business, profession, commodity, commercial service or entertainment.

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.

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.

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.

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.

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.

Sign - Illuminated Sign. Any sign which contains an element designed to emanate artificial light internally or externally.

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.

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.

Sign - Marquee Sign. Any building sign painted, mounted, constructed or attached in any manner on a marquee.

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.

Sign - Multiple Tenant Sign. Any site which has more than one (1) tenant, and each tenant has a separate ground level exterior public entrance.

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.

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.

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.

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 and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

Sign - On-Premise Signs. Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

Sign - Pole Sign. See Pylon Sign.

Sign - Portable Sign. Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground sign this characteristic is based on the design of such a sign.

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.

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.

Sign - Roof Sign. Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure.

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 room 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.

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.

Sign - Shimmering Sign. A sign which reflect an oscillating or distorted visual image.

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.

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.

Sign - Sign Face. The surface of the sign upon, against, or through which the message of the sign is exhibited.

Sign - Sign Structure. Any structure including the supports, uprights, bracing, and framework which supports or is capable of supporting any sign.

Sign - Suspended Sign. Any building sign that is suspended from the underside of a horizontal plan surface and is connected to this surface.

Sign - Total Site Signage. The maximum permitted combined area of all signs allowed on a specific property.

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.

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.

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.

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.

Single-Phase Development. The process where improvement of the entire site occurs in one continuing process. Activities which can occur during single-phase development include initial site grading; installation of utilities; construction of public streets; construction and installation of utilities; construction of public streets; construction and grading of drainage ways; filling of any areas, grading of the pad area; utility hookups; construction of buildings, parking lots, driveways, storage areas, recreation areas, private streets; and any other activity within the construction area.

Site. Lot or combination of contiguous lots which are intended, designated and/or approved to function as an integrated unit.

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.

Slope. The degree of deviation of a surface from the horizontal, usually, expressed in percent or degrees.

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.

Solar Related.

1. **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.

2. **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.
3. **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.
4. **Solar Energy.** Radiant energy (direct, diffuse, and reflected) received from the sun.
5. **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.
6. **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.
7. **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.
8. **Solar Structure.** A structure designed to utilize solar energy as an alternate for, or supplement to a conventional energy system.

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.

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.

Stoop. A small porch, platform, staircase at a house door with or without steps and with or without a roof.

Storage, Outdoor. Keeping of any personal property, commercial, or industrial property that is not enclosed in a building or screened so as not to be visible from adjoining properties or public right of way.

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 top most 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.

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.

Street, Cul-de-Sac. A local street, one end of which is closed and consists of a circular turn around.

Street, Public. A public right-of-way which affords primary means of access to abutting property, and shall also include an avenue, highway, road, or way, or however otherwise designated.

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.

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.

Street, Local. A street intended to serve primarily as an access to abutting properties.

Street, Minor Arterial. Streets which serve as transitions between principal arterials and local collector streets.

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.

Stringer. A line of string, rope, cording or an equivalent to which is attached a number of pennants.

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.

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.

Structure, Principal. The main building on a parcel of land.

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.

~~**Swimming Pool.** A water filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above surface pool having a depth of more than thirty (30) inches designed, used and maintained for swimming.~~

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.

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:

1. 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.
2. Creating cemetery lots.
3. Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

Surface. A road, driveway, approach, parking lot which consists of gravel, crushed rock, lime rock, bituminous surface, concrete surface, or other similar material.

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.

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.

Tree. Any of the following type of trees, as each is defined herein:

1. **Coniferous Tree.** A woody plant which, at maturity, is at least twelve (12) feet or more in height, having foliage on the outermost portion of the branches year round.
2. **Deciduous Tree.** A woody plant which, at maturity, is at least fifteen (15) feet or more in height, having a defined crown, and which sheds leaves annually.
3. **Significant Tree.** A healthy tree measuring a minimum of six (6) inches in diameter for deciduous trees, or a minimum of twelve (12) feet in height for coniferous trees.
4. **Significant Tree Stand.** 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 six (6) inches or larger in diameter or coniferous trees twelve (12) feet or higher in height.
5. **Specimen Tree.** A healthy hardwood tree measuring equal to or greater than thirty (30) inches in diameter and/or a coniferous tree measuring fifty (50) feet or greater in height.

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.

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.

Townhouse. A single family building attached by party walls to other single family buildings, and oriented so that all exits open to the outside.

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.

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, 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.

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.

Two-Phase Development. The process where improvement of the entire site occurs in at least two distinct phases. Generally, the first phase includes initial site grading; installation of utilities; construction of public streets; construction, grading of drainage ways; and filling of any areas. The second phase generally includes grading of specific pad areas; utility hookups; construction of buildings, parking lots, driveways, storage areas, recreation areas, private streets; and any other activity within the specific construction zone.

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.

Use, Permitted. A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

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.

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.

Warehousing. The storage of materials or equipment within an enclosed building.

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.

Wetland. Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.

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.

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.

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.

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.

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.

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.

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.

Zoning Administrator. The duly appointed person charged with enforcement of this Ordinance.

Zoning Amendment. A change authorized by the City either in the allowed use within a district or in the boundaries of a district.

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.

SECTION 3
ADMINISTRATION – ENFORCEMENT AND APPEALS

Section:

- 515-3-1: Enforcing Officer
- 515-3-2: Violations, Penalties and Enforcement
- 515-3-3: Board of Zoning Appeals
- 515-3-4: Appeal Procedures

515-3-1: Enforcing Officer. The City Council shall appoint a Zoning Administrator. 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 the Building Department to enforce the provisions of this Ordinance.
- F. 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 Section 515-3-2. 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 insure compliance with or to prevent violation of provisions of this Ordinance.

515-3-2: Violations, Penalties and Enforcement.

- A. **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 a misdemeanor and, upon conviction thereof, the violator shall be fined not more than the maximum penalty for a misdemeanor prescribed under State law. Each day that a violation is permitted to exist shall constitute a separate offense.
- B. **Penalties.** Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitute a separate offense.

- C. 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.
- D. 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.
- E. Penalties for Violation in Flood Zone
 - 1. 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 constitute a misdemeanor and shall be punishable as defined by law.
 - 2. Nothing herein contained shall prevent the City of Brainerd from taking such other lawful action as is necessary to prevent or remedy any violation.
 - 3. 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.
 - 4. 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.
 - 5. 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 (1) 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 (2) notify the responsible party to apply for an after-the-fact permit/development approval within specified period of time not to exceed thirty (30) days.

6. 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.

515-3-3: Board of Zoning Appeals. The City Council shall serve as the Board of Zoning Appeals.

515-3-4: Appeal Procedures.

- A. 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.
- B. 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 515-7-2 of this Ordinance. No use Variances shall be issued by the Board of Zoning Appeals.
- C. 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.
- D. 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 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.

SECTION 4
ADMINISTRATION – AMENDMENTS (TEXT AND MAP)

- Section:
515-4-1: Amendments to Zoning Ordinance
515-4-2: Procedure

515-4-1: Amendments to the Zoning Ordinance.

- A. 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 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.
- B. 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.
- C. 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.

515-4-2: Procedure.

- A. Initiation: The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the 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 district and map boundaries or text of this Ordinance, so as to affect the said real estate.
- B. Requests for rezoning (text or map) shall be filed with the City on an official application form. Such application shall be accompanied by a fee as provided by City Council resolution. Such application shall also be accompanied by five (5) large scale copies and

one (1) reduced scale (not less than 11" x 17") copies of detailed written and graphic materials fully explaining the proposed change, development, or use. If, in the opinion of the Zoning Administrator, reduced scale drawings (11" x 17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. The request for amendment shall be placed on the agenda of the first possible Planning Commission meeting occurring thirty (30) days from the date of submission of the application. The request shall be considered officially submitted when all the informational requirements are complied with.

- C. 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.
- D. Proof of Ownership or Authorization: The applicant shall supply proof of title of the property for which the rezoning is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal 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.
- E. 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.
- F. The mailed notice requirement shall be waived for a city-wide amendment initiated by the Planning Commission or City Council. The Planning Commission must act and report its recommendation in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the applicant has been extended pursuant to Minnesota Statutes 15.99.
- G. Upon receiving the request and any report, recommendation and written Findings of Fact of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded and written findings of fact, and provide these written findings to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.

- H. The person making the application shall be notified of the action taken. The Zoning Administrator shall maintain records of amendments to the text and zoning map of the Ordinance.
- I. 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-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.
- J. 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.
- K. 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:
1. The proposed action's consistency with the specific policies and provisions of the official City Comprehensive Plan.
 2. The proposed use's compatibility with present and future land uses of the area.
 3. The proposed use's effect upon the area in which it is proposed.
 4. Traffic generation of the proposed use in relation to capabilities of streets serving the property.
 5. 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.
- L. The City Council, the Planning Commission, and the City staff 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.
- M. 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.
- N. Approval of a proposed text amendment shall require a majority vote of the City Council.

- O. 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.
- P. The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and one week after said ordinance is published in the official newspaper.

SECTION 5
ADMINISTRATION – CONDITIONAL USE PERMITS

Section:

- 515-5-1: Purpose and Intent
- 515-5-2: Procedure
- 515-5-3: Information Requirement
- 515-5-4: Cancellation of Conditional Use Permits
- 515-5-5: Performance Security

515-5-1: Purpose and Intent. The purpose of a conditional use permit is to provide the City of Brainerd with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. 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.

515-5-2: Procedure.

- A. Request for conditional use permits, as provided within this section shall be filed with the City on an official application form. Such application shall be accompanied by a fee as provided for by Ordinance. Such application shall also be accompanied by five (5) large scale copies and one (1) reduced scale (not less than 11" x 17") copy of detailed written and graphic materials fully explaining the proposed change, development, or use. If, in the opinion of the Zoning Administrator, reduced scale drawings (11" x 17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. When possible, an electronic version of the site plan shall also be provided. The request for conditional use permit shall be placed on the agenda of the first possible Planning Commission meeting. The request shall be considered as being officially submitted when all the information requirements, as required by the City, are provided.
- B. Proof of Ownership or Authorization: The applicant shall supply proof of title and the legal description of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal 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 conditional use permit.
- C. 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.

- D. 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 515-3-2.
- E. 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.
- F. 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.
 - 1. The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
 - 2. The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.
 - 3. 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.
 - 4. The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
 - 5. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
 - 6. The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
 - 7. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.
- G. Requirements for Granting Conditional Use Permits. In permitting a new conditional use or the alteration of an existing conditional use, the following requirements shall be met where applicable:

1. Fire Protection: Fire prevention and fighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.
2. Electrical Disturbance: No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.
3. Noise: Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled subject to MPCA standards. Fire sirens and related apparatus used solely for public purpose shall be exempt from this requirement.
4. Vibrations: Vibrations detectable without instruments on neighboring property in any district shall be prohibited.
5. Odors: No odorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
6. Air Pollution: No pollution of air by flying ash, dust, smoke, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation or other property.
7. Glare: Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.
8. Erosion: No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.
9. Water Pollution: Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.

H. Additional conditions may be beyond those specified by this Ordinance may be required when the City Council considers such necessary to protect the surrounding area or the community as a whole. These may include but are not limited to:

1. Increasing the required lot size or yard dimension.
2. Limiting the height, size or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location or lighting of signs.

7. Requiring a berm, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 8. Designating sites for open space.
- I. The following may be added as conditions to properties in a Flood Zone:
1. Modification of waste treatment and water supply facilities.
 2. Limitations on period of use, occupancy, and operation.
 3. Imposition of operational controls, sureties, and deed restrictions.
 4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 5. 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.
- J. The Planning Commission must act and report its recommendation in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99. If it recommends the conditional use permit, the Commission may impose conditions it considers necessary to protect the public health, safety and welfare.
- K. The City Council must take action on the application after receiving the report of the Planning Commission and shall make a recorded and written finding of fact, and provide this written finding to the applicant within sixty (60) days of receipt of a completed application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99. If it grants the conditional use permit: the City Council may impose conditions it considers necessary to protect the public health, safety and welfare.
- L. 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 515-3-2.
- M. 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 the use, location, and conditions imposed by the City Council; time limits, review dates, and such other information as may be appropriate.

- N. 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.
- O. 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.
- P. 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 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 Conditional Use Permit may be granted at the discretion of the City Council.
- Q. 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:
 - 1. The City shall conduct a public hearing to consider the revocation of a conditional use permit. Notifications shall be distributed and published according to Section 515-5-2.C. The public hearing shall be conducted by the Planning Commission, which shall make a recommendation to the City Council.
 - 2. In considering revocation, the Planning Commission and the City Council shall consider compliance with the approved conditions of the conditional use permit and the standards listed in Sections 515-5-2.F, 515-5-2.G and 515-5-2.H.
 - 3. 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.
- R. Conditional Use Permits issued shall be recorded in the office of the County Recorder as per Minnesota Statutes.

515-5-3: Information Requirement.

- A. The person applying for a Conditional Use Permit for a single family or two-family 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:
1. Detailed legal description of the property.
 2. Site plan showing location of all buildings and structures with dimensions and setbacks.
 3. Planting plan showing pathway system, width and material, screening fences with detail, lighting system, recreational feature, if any.
 4. Landscape plan showing location, species and size of all plant material.
 5. Drainage plan indicating catch basins and underground improvement.
 6. Utility systems for sanitary sewer, water, gas, telephone and electric which shall all be underground for new construction.
 7. 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.
 8. SITES ADJACENT TO MNDOT RIGHT OF WAY SHALL BE SUBMITTED TO MNDOT FOR REVIEW AND COMMENT.
 9. Off-street parking, drives and access plan.
 10. Off-street loading plan, if any, is necessary.
 11. Plan for adjustment to existing rights-of-way, easements, utilities and new dedications.
 12. Architectural plans showing elevations, entrances, heights, floor plans and material to be used on the exterior.
 13. 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.

- B. The person applying for a Conditional Use Permit within a commercial or industrial district and for all townhome and multiple family properties 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:
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.
 - g. All encroachments.
 - h. Legal description.
 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 and
 - e. All proposed improvements, including:
 - 1) Required and proposed setbacks.
 - 2) Location, setback and dimensions of all proposed buildings and structures.
 - 3) Location of all adjacent buildings and structures within one hundred (100) feet of the exterior boundaries of the subject property.
 - 4) Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
 - 5) Location and width of all proposed street accesses and driveways.
 - 6) Location and type of all proposed lighting, including fixture details.
 - 7) Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
 - 8) Location of freestanding signs.
 - 9) Location of HVAC equipment whether ground mounted or roof mounted.

3. Grading Plan (using the current Certificate of Survey as a base) depicting the following:
 - a. Existing contours at two (2) foot intervals.
 - b. Proposed grade elevations at two (2) foot maximum intervals.
 - c. Drainage plan, including the configuration of drainage areas and calculations.
 - d. Spot elevations.
 - e. Surface water ponding and treatment areas.
 - f. Erosion control measures.
 - g. Wetland replacement plan (when applicable).
 - h. Drainage calculations for 2, 10, and 100 year storm events.
 - i. Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
 - j. Date of plan preparation and dates of any subsequent revisions.

4. Landscaping Plan using the current Certificate of Survey as a base depicting the following:
 - a. 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.
 - b. Location, type and size of all significant trees to be removed or preserved.
 - c. Location and species of proposed plantings of all species.
 - d. Typical sections with details of fences, walls, and planter boxes.
 - e. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.
 - f. Delineation of both sodded and seeded areas with respective areas measured in square feet.
 - g. Coverage plan for underground irrigation systems, if any.
 - h. Other existing or proposed conditions that could be anticipated to affect landscaping.
 - i. Date of plan preparation and dates of any subsequent revisions.

5. Photometric Lighting Plan, in accordance with Section 18, to include fixture details/cut sheets/drawings and date of plan preparation and dates of any subsequent revisions.

6. Architectural Plans including:
 - a. Date of plan preparation and dates of any subsequent revisions.
 - b. Architectural elevations of all principal and accessory buildings and structures showing entrances, heights, floor plans, and exterior materials.
 - c. Typical floor plans and typical room plans drawn to scale with a summary of square footage by use or activity.
 - d. Plans for building additions shall identify existing and proposed elevations.

7. Utility Plan, including:
 - a. Location, sizing, and type of water and sewer system mains, storm sewer and proposed service connections, hydrants, valves, and manholes; or,
 - b. Location and size of proposed primary and secondary on-site treatment systems, when allowed (if proposed).
 - c. Date of plan preparations and dates of any subsequent revisions.
 - d. Estimates of forecasted water consumption.
 - e. Location of electrical services and any transformers and meters.
- B. One copy of the information described in the above shall be transmitted to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
- C. Based upon the technical evaluation of the designated engineer or expert, the City shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

515-5-4: Cancellation of Conditional Use Permits.

- A. 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 such conditional 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 provided that:
 1. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the initial conditional use permit request.
 2. 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.
 3. A maximum of one (1) administrative extension shall be granted.
 4. The extension shall not exceed ninety (90) days from the initial conditional use permit expiration date.
 5. There shall be no charge for the filing of a petition for an administrative extension.

- B. Upon receiving a recommendation from the Planning Commission and City staff, the City Council may grant an extension of the conditional use permit of greater than ninety (90) days provided that:
1. The conditions described in subsection A.1-3 above are satisfied.
 2. The extension shall not exceed one (1) year from the initial conditional use permit expiration date.
 3. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

515-5-5: Performance Security.

- A. 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 building permits 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.
- B. The security shall be in the amount recommended by City Staff 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.
- C. 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 City Building Official.
- D. 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.
- E. 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.

SECTION 6
ADMINISTRATION – INTERIM USES

Section:

- 515-6-1: Purpose and Intent
- 515-6-2: Procedure
- 515-6-3: General Standards
- 515-6-4: Termination
- 515-6-5: Cancellation of Interim Use Permits

515-6-1: Purpose and Intent. The purpose and intent of allowing interim uses is:

- A. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
- B. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
- C. 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.

515-6-2: Procedure.

- A. 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.
- B. 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 5 of this Ordinance.

515-6-3: General Standards. An interim use shall comply with the following:

- A. 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.

B. New Uses:

1. Meets the standards of a conditional use permit set forth in Section 5 of this Ordinance.
2. Conforms to the applicable performance standards of this Ordinance.
3. The use is allowed as an interim use in the respective zoning district.
4. The date or event that will terminate the use can be identified with certainty.
5. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
6. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

515-6-4: Termination. An interim use shall terminate when any of the following events first occurs:

- A. The date stated in the permit.
- B. Upon violation of conditions under which the permit was issued.
- C. Upon change in the City's zoning regulations which render the use non-conforming.
- D. 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.

515-6-5: 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.

SECTION 7
ADMINISTRATION - VARIANCES

Section:

- 515-7-1: Purpose and Intent
- 515-7-2: General Provisions and Evaluation Criteria
- 515-7-3: Procedure
- 515-7-4: Lapse of Variance
- 515-7-5: Performance Security

515-7-1: 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 undue hardship because of physical circumstances unique to the individual property under consideration, and to grant such Variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

515-7-2: General Provisions and Evaluation Criteria. A Variance to the provision of the Zoning Ordinance may be issued to provide relief to the landowner in those zones where the ordinance imposes undue hardship or practical difficulties to the property owner in the reasonable use of this land. No use Variances may be issued. A Variance may be granted only in the event that the following circumstances exist:

- A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this ordinance have had no control.
- B. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- C. That the special conditions or circumstances do not result from the actions of the applicant.
- D. That granting the Variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.
- E. The Variance requested is the minimum Variance, which would alleviate the hardship.
- F. The Variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone.

- G. In granting of such Variance, the Board of Adjustments shall clearly identify in writing the specific conditions that existed consistent with the criteria specified which justified the granting of the Variance.
- H. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.
- I. Undue hardship caused by the special conditions and circumstances may not be solely economic in nature, if a reasonable use of the property exists under the terms of this Ordinance.
- J. Special conditions and circumstances causing undue hardship shall not be a result of lot or building size, or building location when the lot qualifies as a buildable parcel.

515-7-3: Procedure.

- A. The person applying for a Variance shall fill out and submit to the Zoning Administrator a Variance request form, and pay the required filing fee. Such application shall also be accompanied by five (5) large scale copies of detailed written and graphic materials fully explaining the proposed change, development, or use and one (1) reduced (11x17) copy of all graphic materials.
- B. The Zoning Administrator shall refer the application to the Planning Commission for review.
- C. 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 (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).
- D. The Planning Commission must act and report its recommendation in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99. If it recommends the Variance, the Planning Commission may impose conditions it considers necessary to protect the public health, safety and welfare.

- E. 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.
- F. 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.

515-7-4: Lapse of Variance.

- A. 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:
 - 1. 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.
 - 2. 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.
 - 3. A maximum of one (1) extension shall be granted.
 - 4. The extension shall not exceed ninety (90) days from the initial Variance expiration date.
 - 5. There shall be no charge for the filing of a petition for the extension.
- B. Upon receiving a recommendation from the Planning Commission and City staff, the City Council may grant an extension of the Variance of greater than ninety (90) days provided that:
 - 1. The conditions described in subsection A.1-3 above are satisfied.
 - 2. The extension shall not exceed one (1) year from the initial Variance approval date.
 - 3. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

515-7-5: Performance Security.

- A. 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.
- B. The security shall be in the amount recommended by City Staff based on estimated costs of labor and materials for the proposed improvements or development.
- C. 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.
- D. 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.
- E. 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.

SECTION 8
ADMINISTRATION – PERMITS AND CERTIFICATES OF OCCUPANCY

Section:

- 515-8-1: Building Permits
- 515-8-2: Application for Permit within a Flood Zone
- 515-8-3 Certificate of Zoning Compliance

515-8-1: 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.

515-8-2: 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.

515-8-3: Certificate of Zoning Compliance Required.

- A. 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.
- B. 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.
- C. Any use, arrangement, or construction at variance with the authorized, approved plans shall be deemed a violation of this Ordinance, and punishable as provided by Section 515-3-2 of this Ordinance.
- D. 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.

SECTION 9
ADMINISTRATION – ADMINISTRATIVE PERMITS

Section:

- 515-9-1: Purpose
- 515-9-2: Procedure
- 515-9-3: Information Requirement
- 515-9-4: Performance Standards
- 515-9-5: Administration and Enforcement

515-9-1: 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.

515-9-2: Procedure.

- A. 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.
- B. 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.
- C. The Zoning Administrator shall review the application and related materials and shall determine that the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards.
- D. 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:
 - 1. Compliance with and effect upon the policies and provisions of the official Comprehensive Plan.
 - 2. 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.
 - 3. 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.
 - 4. 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 district.

5. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
 6. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 7. The use, event or activity and site conform to all applicable performance standards of this Ordinance.
- E. 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 pursuant to Minnesota Statutes 15.99. Upon notification to the applicant that any application presented is incomplete in any way, no action will be commenced by the City until such time as a complete application is submitted as regulated by Minnesota Statutes 15.99.
- F. 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.
- G. 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.
- H. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as defined by Section 515-3-4 of this Ordinance.

515-9-3: Information Requirement. The information required for all administrative permit applications shall include:

- A. 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.
- B. A copy of the approved site plan 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.

- C. An accurate floor plan, which in the judgment of the Zoning Administrator, such a plan is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exists.
- D. A copy of the current sales tax certificate issued by the State of Minnesota, if applicable.
- E. Certification that all property taxes, special assessments, interest and utility fees due upon the parcel to which the administrative permit relates have been paid.
- F. Proof that the applicant has insurance, in an amount acceptable to the City, to protect from risks inherent in the proposed activity.

515-9-4: 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.

515-9-5: Administration and Enforcement.

- A. The Zoning Administrator shall keep a record of applications and administrative permits.
- B. A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.
- C. Enforcement of the provisions of this paragraph shall be in accordance with Section 515-3-2 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.

SECTION 10
ADMINISTRATION – SITE AND BUILDING PLAN

Section:

- 515-10-1: Purpose and Intent
- 515-10-2: City Staff Approval
- 515-10-3: Exceptions to Review
- 515-10-4: Information Requirements
- 515-10-5: Plan Agreements
- 515-10-6: Enforcement

515-10-1: Purpose and Intent. The purpose of this Section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through officially submitted plan documents.

515-10-2: City Staff Approval. Except as provided for in this Section, all site and building plans for multiple family, commercial, industrial or institutional construction shall be subject to the following information requirements and review and administrative approval by City staff.

515-10-3: Exceptions to Review. The following may be excepted from some or all of the site plan information requirements:

- A. New on-site construction of detached single- or two-family residential structures, or uses or structures accessory thereto.
- B. 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.
- C. Expansion of parking not related to modification, addition or enlargements to the gross floor area of an existing building.
- D. 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 district.

515-10-4: Information Requirements.

- A. The person applying for a Site and Building Plan approval within a commercial or industrial district and for all other income producing properties including multiple family shall fill out and submit to the Zoning Administrator an application form and required

filing fee. One and two family dwellings are exempt from this requirement. The applicant shall submit five (5) large scale copies, one (1) reduced (11x17) copy and, if possible, electronic versions of the following data:

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.
 - g. All encroachments.
 - h. Legal description.

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:
 - 1) Required and proposed setbacks.
 - 2) Location, setback and dimensions of all proposed buildings and structures.
 - 3) Location of all adjacent buildings and structures within one hundred (100) feet of the exterior boundaries of the subject property.
 - 4) Location, number, dimensions of all proposed parking stalls, loading areas and drive aisles, with curbing shown.
 - 5) Location and width of all proposed street accesses and driveways.
 - 6) Location and type of all proposed lighting, including fixture details.
 - 7) Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.
 - 8) Location of freestanding signs.
 - 9) Location of HVAC equipment whether ground mounted or roof mounted.

3. Grading Plan (using the current Certificate of Survey as a base) depicting the following:

- a. Existing contours at two (2) foot intervals.
 - b. Proposed grade elevations at two- (2) foot maximum intervals.
 - c. Drainage plan, including the configuration of drainage areas and calculations.
 - d. Spot elevations.
 - e. Surface water ponding and treatment areas.
 - f. Erosion control measures.
 - g. Wetland replacement plan (when applicable).
 - h. Drainage calculations for 2-, 10-, & 100-year storm events.
 - i. Delineated wetland boundary, to include OHWL of any lakes or DNR waters.
 - j. Date of plan preparation and dates of any subsequent revisions.
4. Landscaping Plan using the current Certificate of Survey as a base depicting the following:
- a. 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.
 - b. Location, type and size of all significant trees to be removed or preserved.
 - c. Location and species of proposed plantings of all species.
 - d. Typical sections with details of fences, walls, and planter boxes.
 - e. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials to be used.
 - f. Delineation of both sodded and seeded areas with respective areas measured in square feet.
 - g. Coverage plan for underground irrigation systems, if any.
 - h. Other existing or proposed conditions that could be anticipated to affect landscaping.
 - i. Date of plan preparation and dates of any subsequent revisions.
5. Photometric Lighting Plan, to include fixture details/cut sheets/drawings and date of plan preparation and dates of any subsequent revisions.
6. Architectural Plans including:
- a. Date of plan preparation and dates of any subsequent revisions.
 - b. Architectural elevations of all principal and accessory buildings and structures (type and materials used in all exterior surfaces).
 - c. Typical floor plans and typical room plans drawn to scale with a summary of square footage by use or activity.
7. Utility Plan, including:

- a. Location, sizing, and type of water and sewer system mains and proposed service connections, hydrants, valves, and manholes; or,
 - b. Location and size of proposed primary and secondary on-site treatment systems, when allowed (if ISTS is proposed).
 - c. Storm sewer, catch basins, invert elevation, type of castings and type of materials (refer to Engineering Manual for City standards).
 - d. Date of plan preparations and dates of any subsequent revisions.
 - e. Estimates of forecasted water consumption.
 - f. Location of electrical services and any transformers and meters.
- B. Other plans and information as may be required by the Zoning Administrator which may include (but not be limited to) the following:
1. Location, type and size (area and height) of all signs to be erected upon the subject property.
 2. Vicinity map showing the subject property in relation to nearby highways or major street intersections.
 3. Sound source control plan.
 4. Fire protection plan.
 5. Proposed protective covenants or private restrictions.
 6. 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.
 7. Traffic study.

515-10-5: Plan Agreements. All site and construction plans officially submitted to the City shall be treated as a formal agreement between the building contractor 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.

515-10-6: Enforcement. City staff 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 City staff.

SECTION 11
ADMINISTRATION – PLANNED UNIT DEVELOPMENTS (PUD)

Section:

- 515-11-1: Purpose and Intent
- 515-11-2: PUD Types
- 515-11-3: General Standards and Requirements
- 515-11-4: General Standards for Common Open Space
- 515-11-5: Conveyance and Maintenance of Common Open Space
- 515-11-6: Enforcement of Development Schedule/Staging of PUD
- 515-11-7: Residential Density
- 515-11-8: Residential PUD/CUP Requirements
- 515-11-9: Commercial and Industrial PUD/CUP Requirements
- 515-11-10: Procedure for Processing a PUD
- 515-11-11: General Concept Plan
- 515-11-12: Development Stage Plan
- 515-11-13: Final Plan
- 515-11-14: Coordination with Subdivision Resolution Regulations
- 515-11-15: PUD Review and Amendments

515-11-1: Purpose and Intent.

- A. To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning 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.
- B. To allow for a mixture of residential units in an integrated and well-planned area.
- C. 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.
- D. Facilitate the economical provision of streets and public utilities.
- E. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.
- F. Promotion of a desirable and creative environment that might be prevented through the strict application on zoning and subdivision regulations of the city.

Section 515-11-2: PUD Types.

- A. Conditional Use Permit. Planned unit development allows for design flexibility related to density, setbacks, building heights, lot area, lot width, etc. However, the range of uses allowed in a conditional use planned unit development is limited to those uses allowed in the base zoning district. PUD/CUP shall be processed as outlined in Section 5 of this Chapter and as outlined herein.
- B. Planned Unit Development Zoning. A mixed use planned unit development that may include land uses from a variety of zoning districts must utilize the PUD Zoning District. A rezoning for a PUD shall be processed as outlined in Section 4 of this Chapter and as outlined herein.

Section 515-11-3: General Requirements. The City may approve the planned unit development only if it is found that the development satisfies all of the following standards:

- A. The proposed planned unit development is in conformance with the Comprehensive Plan for Brainerd. At a minimum, the City shall find that the planned unit development does not conflict with the Comprehensive Plan with regard to the following:
 - 1. 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.
 - 2. The use is reasonably related to the overall needs of the City and is compatible with the surrounding land use.
 - 3. The planned unit development 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.
 - 4. 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.
- B. The Planned Unit Development meets or exceeds the following development criteria:
 - 1. A minimum of two (2) or more principal structures is proposed.
 - 2. 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 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 its 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. To evidence this finding, a written statement of financial feasibility, which is accepted by the City shall be submitted by the applicant.
- G. One (1) individual has been designated by the property owner(s) to be in control of the development.
- H. The Planned Unit Development provides for architectural diversity by way of varied building types and exterior building design.
- I. Underground Utilities. In any PUD, all utilities, including, but not limited to, telephone, electricity, gas and cable television shall be installed underground.
- J. Utility Connections.
 - 1. 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.
 - 2. Sewer Connections. Where more than one unit is served by a sanitary sewer lateral which exceeds three hundred (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.
- K. Roadways, Private.
 - 1. Design. Private roadways within the project shall have an improved surface to twenty-eight (28) feet or more in width and shall be so designed as to permit the City fire trucks to provide protection to each building.
 - 2. Parking. No portion of the required private road system may be used in calculating required off-street parking space or be used for parking.
- L. Landscaping. In any 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 PUD plan.

- M. 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.
- N. Refuse. Provision for trash pick-up shall be provided according to a plan approved by the City Council.
- O. Best Management Practices. All PUDs shall incorporate Best Management Practices for stormwater management as defined by Section 515-2-2 of this Ordinance, subject to review and approval of City staff, Planning Commission and City Council.
- P. 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:

Street Type	Sidewalk/Trail Requirements
Arterial and Major Collector Streets	Sidewalk on one side of 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 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.	

- Q. Development agreement. Prior to a rezoning or the issuance of a building permit as part of planned unit development, the developer shall execute a development agreement with the City. The agreement shall detail all use restrictions and required improvements conditional to the PUD rezoning or CUP approval. The agreement shall provide for the installation within one year of the off-site and on-site improvements as approved by the council, secured by a cash escrow or security in an amount and with conditions satisfactory to the City, to insure 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 times the estimated cost of the improvements as determined by the City of Brainerd.

515-11-4: 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:

- A. The location, shape, size, and character of the common open space must be suitable for the planned development.
- B. 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.

- C. 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.

Section 515-11-5: Conveyance and Maintenance of Common Open Space.

- A. 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.
 - 1. 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.
 - 2. 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.
- B. 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.

Section 515-11-6: Enforcement of Development Schedule/PUD Staging. The construction and provision of all of 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, City staff 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, which may revoke the conditional use permit. If the developer or landowners fail to complete the open spaces and recreation areas within sixty (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.

Section 515-11-7: Residential Density.

- A. 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 in the Comprehensive Plan where the land is located. If the Planned Unit Development is in more than one (1) density area, the number of allowable dwelling units must be separately calculated for each portion of the Planned Unit Development that is in a separate area, and must then be combined to determine the number of dwelling units allowable in the entire Planned Unit Development.
- B. The number of dwelling units which may be constructed within the Planned Unit Development shall be determined by dividing the gross acreage of the project area by the maximum allowable density as set forth in Section 515-11-6.A of this Ordinance.

Section 515-11-8: Residential PUD/CUP Requirements.

- A. It is the intent of this section to establish special requirements for the granting of a Conditional Use Permit for residential 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.
- B. Yards.
 - 1. Setbacks, Periphery. The front and side yard restrictions at the periphery of the Planned Unit Development site at a minimum shall be the same as imposed in the respective districts.
 - 2. Setback, Front. No building shall be located less than 20 feet from the back of the curb line and no garage face shall be located less than 25 feet from the back of the curb line along those roadways which are part of the internal street pattern.
 - 3. 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.

C. Townhouses, Cooperatives, Condominiums.

1. Frontage. Minimum unit lot frontage for townhouses shall be not less than 24 feet.
2. Dwelling Unit. Dwelling unit and accessory use requirements are in compliance with the district provisions in which the development is planned.
3. Building Façade Treatment. Facades greater than forty-eight (48) feet in length shall incorporate wall plan projections or recesses having a depth of at least three (3) feet or more.
4. Open Space. Townhouse and multiple family projects shall have usable open space area equal to forty (40) percent of the total project site.

Section 515-11-9: Commercial and Industrial PUD/CUP Requirements.

A. The intent of this section is to establish special requirements for the granting of a Conditional Use Permit to allow commercial or industrial 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.

B. Surfacing and Drainage.

1. Surfacing. The entire site other than that taken up by buildings or landscaping shall be paved with concrete, bituminous or paving brick.
2. Drainage. A drainage system subject to the approval of the City Engineer shall be installed.

C. Yards.

1. Setbacks, periphery. The front and side yard setbacks shall be the same as imposed in the underlying district.

Section 515-11-10: Procedure for Processing a Planned Unit Development.

A. Stages of PUD. The processing steps for a PUD are intended to provide for an orderly development and progression of the 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 plan affects the public interest. The various steps represent separate applications for purpose of review, compliant with Minnesota Statutes 15.99, outlined in detail in the following sections:

1. Pre-Application Meeting. Preliminary discussions.
 2. General Concept Plan Application. Consideration of overall concept and plan. The concept plan review is voluntary but strongly recommended.
 3. Development Stage Plan Application. One or more detailed Plans as part of the whole final plan.
 4. Final Plan Application. The summary of the entire concept and each Development Stage Plan in an integrated complete and final plan.
- B. Pre-Application Review. Prior to the submission of any 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 includes the procedural steps for a Conditional Use Permit and a Preliminary Plat as necessary. The applicant is urged to avail himself or herself of the advice and assistance provided by City staff to facilitate the review of the proposed PUD.
- C. 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.

Section 515-11-11: General Concept Plan.

- A. The General Concept Plan provides an opportunity for the applicant to submit a plan to the city showing his basic intent and the general nature of the entire development before incurring substantial cost. This concept plan serves as the basis for public comment so that the proposal may be publicly considered at an early stage. The following elements of the proposed General Concept Plan represent the immediately significant elements which the City shall review and for which a decision shall be rendered:
1. Overall maximum PUD density range.
 2. Location of major streets and pedestrian ways.
 3. Location and extent of public and common open space.
 4. Location of residential and nonresidential land uses with approximate type and intensities of development.
 5. Staging and time schedule of development.
 6. Other special criteria for development.

B. General Concept Plan submission information.

1. General Information.

- a. Owner. The landowner's name, address and telephone number and interest in the subject property.
- b. 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.
- c. Consultants. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
- d. Title of Applicant. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed 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.

2. Present status of premises and adjacent properties.

- a. Description. The address and legal description of the subject property. A survey is required.
- b. Zoning. The existing zoning classification and present use of the subject property and all lands within 500 feet of the subject property.
- c. Map. A single reproducible map or aerial photograph at a scale of not less than one 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.

3. Narrative Description. A written statement generally describing the proposed PUD and the market which it is intended to serve, showing its relationship to the City's Comprehensive Plan and how the proposed 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.

4. 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 one hundred (100) feet shall be submitted and shall contain the following:

- a. Survey showing lot dimensions and existing easements and utilities.
 - b. Contours--Minimum two foot intervals.
 - c. Location, type, and extent of tree cover.
 - d. 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.
5. 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.
6. Number of Units. A statement of the estimated total number of dwelling and/or other units proposed for the 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.
 - g. Approximate area, and potential floor area, devoted to industrial or office uses.

7. Staged Development. When the 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 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.
8. Common Areas. When the proposed 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. 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.
9. Covenants. General intent of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
10. Market Feasibility. Where deemed necessary by City staff, a market feasibility study including an analysis of the proposals economic impact on the city.

C. General Concept Plan Process.

1. The developer shall submit five (5) copies of the General Concept Plan for distribution to the Planning Commission.
2. The applicant, or a representative thereof, shall appear before the Planning Commission in order to answer questions concerning the proposed development.
3. Planning Commission shall review and make a recommendation to the City Council on the General Concept Plan.
4. City Council reviews all recommendations and indicates its support or concerns about the General Concept Plan as presented or amended.

D. Optional Submission of Development Stage Plan. In cases of single stage PUD or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, they may, at their option, submit Development Stage Plans for the proposed PUD simultaneously with the submission of the General Concept Plan. In such case, 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.

- E. Effect of Concept Approval. PUD concept approval only provides direction for the applicant to proceed to PUD Development Stage Plan submission. The concept plan approval does not convey any development rights or privileges to the applicants.

Section 515-11-12: Development Stage Plan. Development Stage Plan submissions shall depict and outline the proposed implementation of the PUD General Concept Stage. Information from the General Concept Stage may be included for background and to provide a basis for the submitted plan.

- A. Application. Requests for PUD Development Stage as provided within this Ordinance, shall be filed on an official application form. Such application shall be accompanied by a fee as provided for by Section 515-1-8 of this Ordinance. Such application shall also be accompanied by five (5) copies of detailed written and graphic materials fully explaining the proposed change, development, or use, as follows:
 - 1. Zoning Required. Zoning classification required for Development Stage submission and any other public decisions necessary for implementation of the proposed plan.
 - 2. Site Plan/Preliminary Plat. Drawn to a scale of one (1) inch equals one hundred (100) feet or less, containing the following information:
 - a. Project Name. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County where the subject property is situated).
 - b. Survey. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property. An accurate legal description of the entire area within the PUD for which Final Plan approval is sought, correlated to the legal description defining use districts in this Ordinance.
 - c. Preliminary Plat. Preliminary Plat, if applicable, shall comply with all the performance standards of the Subdivision Ordinance and the Zoning Ordinance.
 - d. 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.
 - e. 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.

- F. 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.
 - G. SITES ADJACENT TO MNDOT RIGHT OF WAY SHALL BE SUBMITTED TO MNDOT FOR REVIEW AND APPROVAL.
 - h Common Areas. Location, designation and total area of all common open space.
 - i. 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.
 - j. Location of Existing Structures. The location, use and size of structures and other land uses on adjacent properties within one hundred (100) feet of the property boundaries.
3. Residential Tabulation. A tabulation indicating the number of residential dwelling units by number of bedrooms and expected population/housing profile.
 4. Areas of Use. A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of use.
 5. Architectural Plans. Preliminary architectural plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings and architectural guidelines for future development phases.
 6. Landscape Plan. A detailed landscaping plan including the type, size and quantity of all existing and proposed plantings.
 7. Grading and Drainage Plan. Preliminary grading and drainage plan illustrating changes to existing topography and natural site vegetation. The Plan should clearly reflect the site treatment and its conformance with the approved concept plan.
 8. Erosion Control. An Erosion Control Plan acceptable to watershed management organization and any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

9. Document Changes. A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.
10. Preliminary Plat, if applicable. A Preliminary Plat conforming to the Subdivision Ordinance.
11. Lighting Plan. A plan illustrating site lighting along with a photometric plan as regulated by Section 18 of this Ordinance.
12. Additional Data. Such other and further information as the City staff, Planning Commission or City Council shall find necessary for a full consideration of the entire proposed PUD or any stage thereof.

B. Development Stage Plan Review Schedule.

1. The applicant shall file the development stage application within six (6) months after Concept Plan review, together with all supporting data and filing fee, as established by Ordinance.
2. It is recommended that the developer meets with City staff 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 PUD Development Stage Plan, the request shall be referred to appropriate City staff to ensure that 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 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 pursuant to the time periods established by MN State Statutes 15.99.
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 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. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for 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. The Planning Commission must act and report its recommendations in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the application has been extended pursuant to Minnesota Statutes 15.99.
9. The City Attorney shall prepare a 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 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 PUD that has received Final Plan approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

Section 515-11-13: Final Plan. The Final Plan is to serve as a complete, thorough and permanent public record of the 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

PUD process. It shall serve in conjunction with other City ordinances and the land use regulations applicable to the 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.

A. Final Plan Submission Information. After review of a General Concept Plan for the PUD and approval of a Development Stage Plan for a section or sections of the proposed PUD, the applicant will submit the following material for review by City staff prior to issuance of a Building Permit:

1. 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 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.
2. Final Plans, Buildings. Final architectural working drawings of all buildings.
3. 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.
4. Other Plans. Any other plans, agreements, or specifications necessary for the City staff to review the proposed construction. All work shall be in conformance with the Building Code of the City.

B. Final Plan Review Schedule.

1. Upon approval of the Development Stage Plan and within the time established by Section 515-11-12.B.10 of this Ordinance, the applicant shall file with the Zoning Administrator a Final Plan consisting of the information and submissions required by Section 515-11-13.A of this Ordinance for the entire PUD or for one (1) or more stages. This application will be considered at the next possible regular Planning Commission meeting.
2. 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.
3. Within sixty (60) days of receipt of a complete PUD final plan application, unless the review period is extended in accordance with Minnesota Statutes 15.99, and receipt of the findings and recommendations of the Planning Commission, the City Council shall grant approval or denial of said request.

4. 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.
 5. 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, City staff 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 City staff is first satisfied that the requirements of all codes and ordinances in which are applicable to the permit sought, have been satisfied.
- C. Limitation on Final Plan Approval. Within one (1) year after the approval of a Final Plan for 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 render void the PUD permit and all approvals of the PUD plan and the area encompassed within the 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 PUD permit and all 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.

Section 515-11-14: Coordination with Subdivision Resolution Regulations.

- A. It is the intent of this Ordinance that subdivision review under the Subdivision Ordinance be carried out simultaneously with the review of a Planned Unit Development under this Chapter of the Zoning Ordinance.
- B. 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.

Section 515-11-15: Planned Unit Development (PUD) Review and Amendments.

- A. Annual Review. City staff 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 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 PUD permit.

B. Amendments to the Planned Unit Development (PUD).

1. Any deviation or modification from the terms or conditions of an approved PUD, or any alteration in a project for which a PUD permit has been approved, shall require an amendment of the original 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.
2. 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 Section 515-11-10.

SECTIONS 12-14
RESERVED

SECTION 15
NON-CONFORMING LOTS, BUILDINGS, STRUCTURES AND USES

Section:

- 515-15-1: Purpose
- 515-15-2: General Provisions
- 515-15-3: Non-conforming Uses
- 515-15-4: Non-conforming Buildings and Structures
- 515-15-5: Non-conforming Lots

515-15-1: 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. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming lots, buildings, structures, and uses are not allowed to continue without restriction.

515-15-2: General Provisions.

- A. 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.
- B. 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.
- C. Subdivision: No parcel of land or portion thereof shall be subdivided if such action results in parcels, buildings and structures becoming nonconforming.
- D. 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:

1. The nonconforming use or occupancy is discontinued for a period of more than one year. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
2. 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 one hundred and eighty (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.

515-15-3: Non-Conforming Uses.

A. Changes to Non-Conforming Uses:

1. 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.
2. 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.

515-15-4: Non-Conforming Buildings and Structures.

- A. 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 sixty (60) days of the issuance of a Building Permit, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such building or structure shall thereafter be a legally nonconforming building or structure.

515-15-5: Non-Conforming Lots.

- A. Vacant or Redeveloped Lots: Except in Floodplain and Flood Fringe districts, legal, nonconforming lots of record may be developed, provided that:
1. 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.

2. Unsewered Lots or parcels: A lot or parcel of twenty thousand (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.
 3. Access: The lot in question has frontage on and will directly access an improved public street.
 4. 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.
- B. 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.

SECTION 16
LOT AND YARD PROVISIONS

Section:

- 515-16-1: Purpose and Intent
- 515-16-2: Minimum Lot Area Requirements
- 515-16-3: Building Placement and Multiple Structures
- 515-16-4: Yards
- 515-16-5: Setbacks
- 515-16-6: Permitted Yard Encroachments
- 515-16-7: Zero Lot Line Subdivisions

515-16-1: 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.

515-16-2: Minimum Lot Area Requirements.

- A. Except for non-conforming lots of record governed by Section 515-15-05 of this Ordinance, the minimum lot area shall conform to the standards of the applicable zoning 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.
- B. No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.
- C. Buildable Area.
 - 1. Within zoning districts with a minimum lot size requirement of less than ten (10) acres, the required minimum lot area shall be buildable land, as defined by this Ordinance and shall be exclusive of utility and road easements.
 - 2. Within zoning districts with a minimum lot size requirement of ten (10) acres or more, a minimum of twenty (20) percent of the lot area must be contiguous buildable land, as defined by this Ordinance.

515-16-3: Building Placement and Multiple Structures.

- A. 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.
- B. Principal Buildings. Except in an approved PUD that specifically allows it, as provided for in Section 11 of this Ordinance, not more than one (1) principal building shall be located on a lot or parcel.

515-16-4: Yards.

- A. Yards. No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.
- B. Open Space. Each multiple family dwelling site of four (4) or more units shall contain at least five hundred (500) square feet of usable open space per unit, as defined in Section 2 of this Ordinance, for each dwelling unit contained thereon.

515-16-5: Setbacks.

- A. Reductions. No setback or yard shall be reduced in area or dimension so as to make such setback or yard less than the minimum required by this Ordinance, and if the existing setback, yard or other open space as existing is less than the minimum required, it shall not be further reduced.
- B. 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. In no case shall the required setback be less than twenty (20) feet.
- C. Corner Lots and Double Frontage Lots. Lots which abut more than one street, shall provide the required front yards along every street.
- D. Traffic Visibility Setback. On corner lots in all districts, no structure or planting between two (2) feet and eight (8) feet above the street center line grade shall be permitted within a traffic visibility triangle. The traffic-visibility triangle shall be formed by the intersection of two property lines at the street corner and a third line intersecting these two lines twenty (20) feet from the corner intersection.

515-16-6: Permitted Yard Encroachments.

A. 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 18 of this Ordinance. Replacement of any item located within a public easement which has been destroyed or damaged in order to access 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, provided 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 buildings or equipment including: detached accessory buildings, detached outdoor living rooms, gazebos, air conditioners, accessory antennas, sport courts, swimming pools, and trash enclosures as regulated by Section 515-17-7 of this Ordinance.
7. Fences, in residential areas six feet or less, all other districts eight (8) feet or less, walls forty-eight (48) inches high or less, and hedges six (6) feet, six (6) inches in height or less as regulated by Section 19 of this Ordinance.
8. Essential services.

B. B-3 Zoning District Right-of-Way Permitted Encroachments.

1. Awnings and marquees provided that:

- a. No encroachment over the public right-of-way shall project more than two-thirds (2/3) the width of the sidewalk or ten (10) feet, whichever is less.
 - b. No encroachment may interfere with existing street lighting, or overhead power lines.
 - c. All portions of the marquee or awning framing extending over a public right-of-way shall be at least seven (7) feet above the ground or pavement.
 - d. Maximum thickness of a marquee measured from its lowest to highest point shall not exceed four (4) feet.
 - e. The marquee or awning shall be constructed with a design and materials consistent with the guidelines established for the Central Business District.
2. Projection signs as regulated by Section 37 of this Ordinance.

515-16-7: Zero Lot Line Subdivisions.

- A. Townhomes and Apartments. If existing quadraminium, townhouses or apartment units not on separate unit lots are to be subdivided on an individual unit or condominium basis for owner occupancy, it shall require a planned unit development according to the provisions of Section 11 of this Ordinance.
- B. Subdivision of Two Family Lots. The subdivision of base lots containing two family dwellings to permit individual private ownership of a single dwelling within such a structure is acceptable contingent upon the following requirements:
 1. Prior to a two family dwelling or a quadraminium subdivision, the base lot shall meet all the requirements of the zoning district.
 2. There shall be no more than one (1) principal structure on a base lot in all residential districts. The principal structure on a unit lot created in a two family or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted base lots.
 3. Permitted accessory uses as defined by the zoning districts are acceptable provided they meet all the zoning requirements.
 4. 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.

5. 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.
 6. The subdivision is to be platted and recorded in conformance to requirements of the Subdivision Ordinance.
- C. 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.

SECTION 17
GENERAL BUILDING, USE AND DESIGN PROVISIONS

Section:

- 515-17-1: Purpose and Intent
- 515-17-2: Dwelling Unit Restriction
- 515-17-3: Building Design Standards
- 515-17-4: Height
- 515-17-5: Screening Rooftop Equipment
- 515-17-6: High Water Elevation
- 515-17-7: Ground Water Elevation
- 515-17-8: Accessory Buildings, Uses and Equipment

515-17-1: Purpose and Intent. This section identifies general building design size requirements and exceptions to general height requirements applicable within each zoning district.

515-17-2: Dwelling Unit Restriction. No cellar, garage, tent, travel trailer, motor home, fish house, basement with unfinished structure above, or accessory building shall at any time be used as a dwelling unit.

515-17-3: Building Design Standards.

A. Single Family Standards.

1. All single family detached dwellings in the R-1, R-2, R-3, and R-4 Districts and those on lots of three (3) acres or less in the RA and RF Districts shall meet the following design criteria:
 - a. Sixty (60) percent of a residential structure shall have a minimum width or depth of twenty (20) feet. Width measurement shall not take into account overhangs or other projections. Such width requirement shall be in addition to the minimum area per dwelling requirements established within this Ordinance.
 - b. All buildings shall be built in conformance with the State Building Code as adopted in the State of Minnesota.
 - c. Dwellings constructed after the effective date of this Ordinance shall have a minimum finished habitable floor area of one thousand (1,000) square feet.

- d. Metal roofs are allowed provided they are constructed with standing seams and concealed fasteners.

B. Two Family and Townhome Standards.

1. The minimum width of a two family or townhome dwelling unit shall be twenty five (25) feet.
2. Two family and townhome dwelling units shall have a minimum finished habitable floor area of one thousand (1,000) square feet.
3. Provision shall be made for possible decks, porches, or additions as part of the initial dwelling unit building plans.
4. A minimum twelve (12) inch roof overhang shall be required for all dwelling units.
5. The exterior shall include a variation in building materials which are to be distributed throughout all building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance. In addition, townhomes shall comply with the following requirements:
 - a. A minimum of twenty-five (25) percent of the combined area of all building facades of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone.
 - b. Except for brick and/or natural or artificial stone, no single building facade shall have more than seventy-five (75) percent of one type of exterior finish.
 - c. For the purpose of this section, the area of the building facade shall not include area devoted to windows, entrance doors, garage doors, or roof areas.
6. Garages.
 - a. Each dwelling unit shall include, at a minimum, a one (1) stall, 12'x20' foot garage.
 - b. Dwellings Without Basements. Each dwelling unit shall include at a minimum, a one (1) stall 16'x20' foot garage.
7. Utilities.
 - a. Separate public utility services shall be provided to each unit.

- b. Each unit shall have a separate sanitary sewer connection.
8. A homeowners' association shall be established for all quadraminium, three and four plex multiple family and townhome developments 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 one (1) individual property owner having interest within the development.
 9. Building elevations and floor plans shall be submitted illustrating exterior building materials and colors to demonstrate compliance with Section _____ of this Ordinance. Building floor plans shall identify the interior storage space within each unit.
 10. Metal roofs are allowed provided they are constructed of standing seams with concealed fasteners.
- C. Multiple Family-Apartments Standards: All multi-family/apartment buildings constructed within the City shall conform to the following:
1. Multiple family dwelling units shall have the following minimum floor area per unit:

Efficiency Units	440 square feet
One Bedroom Units	520 square feet
Two Bedroom Units	700 square feet
More than Two Bedroom Units	An additional 100 square feet per bedroom
 2. Exterior Building Materials. The exterior of multiple family dwelling structures shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance. In addition, multiple family dwelling structures shall comply with the following requirements:
 - a. A minimum of thirty-three (33) percent of the combined area of all building exterior walls of a structure shall have an exterior finish of brick, stucco, and/or natural or artificial stone.
 - b. For the purposes of this section, the area of the building facade shall not include area devoted to windows, entrance doors, garage doors, or roof.
 3. Metal roofs are allowed provided they are constructed of standing seams with concealed fasteners.

D. Commercial Standards Design Construction Standards. All buildings constructed within commercial zoning districts shall conform to the following:

1. Commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
2. Garish or bright accent colors (i.e., orange, bright yellow, or fluorescent colors) for commercial building accents such as cloth or metal awnings, trim, banding, walls, entries or any portion of the building wall shall be minimized, but in no case shall accent colors exceed fifteen (15) percent of each wall area.
3. Exposed roof materials shall be similar to, or an architectural equivalent of a three hundred (300) pound or better asphalt or fiberglass shingle, wooden shingle, and metal roofs as approved by the Minnesota State Building Code.
4. Exterior Building Materials - B-1, B-2, B-4, B-5 and B-6 Zoning Districts.
 - a. All exterior wall surfaces shall be a combination of materials including brick, 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 of less than fifty (50) percent of the gross floor area of the existing structure may use the same as the existing structure. Building additions, remodeling, replacement or reconstruction of fifty (50) percent or greater, shall conform to the standards in this section.
5. Exterior Building Materials – B-3 Zoning District
 - a. Within the B-3 Zoning District, all exterior wall surfaces may be a combination of materials including 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 simulate the historic architecture of a building may be used on not more than fifty (50) percent of a building.
 - b. Buildings with load bearing walls shared with abutting buildings located in B-3 Zones shall conform to standards in this Section if building additions, remodeling, replacement or reconstruction of seventy-five (75) percent or greater are made to street facing exteriors of the building. Expansions shall be calculated over a five year period for determination of this gross floor area amount.

E. Industrial Design Construction Standards. All buildings constructed within industrial zoning districts shall conform to the following:

1. Industrial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
2. Exterior Building Materials.
 - a. Within the I-1 and I-2 Zoning Districts, all exterior walls may be a combination of materials including 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 an Industrial District within three hundred (300) feet of Business T.H. 371, T.H. 210, T.H. 25, T.H. 18, Oak Street, and County Road 3 shall comply with the Commercial Exterior Building Material Standards for the B-1, B-2, B-4, B-5 and B-6 Districts in Section 515-17-3.D.4 of this Ordinance.

515-17-4: Height.

A. Exceptions. The building height limits established herein for 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) per Section 34 of this Ordinance.
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.
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 35 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 district provisions and any other sections of this Chapter 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 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. For each additional story over the district limitation or for each additional ten (10) feet above the maximum allowed per district, front and side yard setback requirements shall be increased by ten (10) percent.
 6. 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.
 7. The provisions of Section 515-5-2 of this Ordinance are considered and satisfactorily met.

515-17-5 Screening Rooftop Equipment.

- A. As viewed from ground levels within 100 feet of street side view, all mechanical equipment located on the roof or around the perimeter of a structure shall be screened by a raised parapet.
- B. 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.
- C. Screening for rooftop mechanical equipment shall incorporate similar architectural features of the building and/or be constructed of a material and color compatible with other elements of the building.

515-17-6: High Water Elevation. All new buildings shall comply with building elevation regulations of the Floodplain and Shoreland Overlay Districts of this Ordinance. In areas beyond

the Floodplain and Shoreland Overlay Districts, all buildings 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.

515-17-7: Ground Water Elevation. The lowest floor, including basement floor, of all structures shall be at a level at least three (3) feet above the highest known ground water table elevation. If requested by the Building Official, the ground water table elevation shall be determined by a licensed soils engineer using soil borings, piezometers, or the observation of mottled soils.

515-17-8: 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 subdivision.
- 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 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. **Accessory Building Floor Area, Height and Number.** The combination of accessory buildings and garages (attached and detached) per lot shall not exceed the following standards:

a. Area.

<u>Zoning District</u>	<u>Maximum Allowable Floor Area</u>
R-A	4,000 square feet
R-R	2,000 square feet
R-E	1,500 square feet
R-1	10% of lot area
R-2	10% of lot area
R-3	30% of the gross floor area of the multiple family structure, 10% of lot area for a duplex
R-4	30% of the gross floor area of the multiple family structure

- 1) An attached garage shall not exceed the maximum allowable floor area as mentioned above, or eighty (80) percent of the footprint of the single family or two family house foundation not including garage, whichever is less. Tuck-under garages are permitted up to the maximum footprint size of the dwelling.
- 2) Accessory building coverage shall not exceed lot coverage requirements as regulated in each district and shall meet required district setbacks.

b. Number of Buildings. Total number of accessory buildings and garages shall be limited to one of the following:

- 1) One (1) attached garage and one (1) detached accessory building; or
- 2) Two (2) detached accessory structures.

c. Height. Detached accessory buildings shall not exceed the height of the principal building or fifteen (15) feet, whichever is less. Exceptions may be granted to allow for the detached accessory building to match the roof pitch of the existing principal building by Conditional Use Permit in accordance with Section 5 of this Ordinance.

4. Setbacks. Detached accessory buildings shall comply with the following setbacks:

- a. Front Setback. No detached accessory building shall be located in any front yard or nearer the front lot line than the principal building on that lot. Property within a shore impact zone (as defined by the Brainerd Shoreland Regulations) along the Mississippi River, and lakes classified

as General Development or Natural Environment may locate accessory buildings in a front yard provided a 25-foot setback is maintained.

b. Side and Rear Setbacks.

- 1) Side and rear setbacks shall be as provided for in the respective Zoning District.
- 2) No accessory building shall be located within a drainage and utility easement.

5. Design Standards. No plastic, canvas or vinyl tarps shall be used in the construction of any accessory buildings. All buildings over one hundred twenty (120) square feet shall have the same or similar finish as the neighboring buildings and be homogeneous in design. Metal roofs are allowed provided they are constructed with standing seams and concealed or exposed fasteners. All buildings that are one hundred twenty (120) square feet or less may be metal sided and shall have a pitched roof.

C. Commercial, Industrial or Public/Semi-Public Accessory Buildings.

1. Commercial or industrial buildings shall not exceed thirty (30) percent of the gross floor space of the principal building.
2. Accessory buildings shall meet all the required setbacks of the principal building.
3. Accessory buildings shall be constructed of building materials to match the principal structure and comply with the building material requirements of Section of this Ordinance.

D. Swimming Pools.

THE PURPOSE OF REGULATING SWIMMING POOL PLACEMENT IS THEY CAN BE TEMPTING TARGETS FOR CHILDREN. THE FOLLOING REGULATIONS ARE DESIGNED TO PREVENT TRAGEDIES BY PROTECTING SUCH CHILDREN.

1. Single Family and Two Family Dwellings. The following shall apply to all swimming pools which are intended for accessory uses to single-family and two-family dwellings:
 - 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 five thousand (5,000) gallons capacity.

- b. Seasonal swimming pools twenty-four (24) inches in depth or greater ~~shall be located in the rear yard~~, shall have controlled access and 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. The permit application shall include:
 - 1) Site plan illustrating:
 - a) Type and size of pool.
 - b) Location of the pool on the lot.
 - c) Location of other buildings and structures on the lot.
 - d) Location of structures on adjoining lots.
 - e) Location of filter and heating units.
 - f) Location of water heaters, pumps and wiring.
 - g) Location of back flush and drain outlets.
 - h) Location of any overhead or underground utilities or utility easements and trees.
 - i) Fence locations.
 - j) Grading plan.
 - 2) Building Plans.
 - a) Swimming pool design.
 - b) Fencing and gate details.
 - c) Deck or surfacing details.
- d. Setbacks and Performance Standards.
 - 1) Pools EIGHTEEN (18) INCHES DEEP OR LESS MAY ~~shall not~~ be located in the front, SIDE ~~yard~~ OR REAR YARD. POOLS OVER EIGHTEEN (18) INCHES SHALL BE LOCATED IN A REAR YARD.
 - 2) POOLS OVER EIGHTEEN (18) INCHES DEEP MAY BE LOCATED IN A SIDE YARD OR STREET SIDE YARD AND SHALL not be located within ten (10) feet of any side yard property line and not closer than twenty (20) feet from a side lot line located on a corner.
 - 3) POOLS OVER EIGHTEEN (18) INCHES DEEP SHALL NOT BE LOCATED closer than eight (8) feet from the rear property line.

- 4) The filter unit, pump, heating unit, and any noise generating mechanical equipment shall be located at least thirty (30) feet from any adjacent residential structure and not closer than ten (10) feet from any lot line.
- 5) Pools shall not be located beneath overhead utility lines or over underground utility lines of any type or located within any private or public utility, walkway, drainage, or other easement.
- 6) POOLS OVER EIGHTEEN (18) INCHES DEEP shall be set back at least five (5) feet from the principal building or frost footing.
- 7) Lighting for the pool shall be designed with a ninety (90) degree cut off and shall be hooded to direct lighting toward the pool and not toward adjacent property.
- 8) Outdoor pools OVER TWENTY FOUR (24) INCHES DEEP shall be completely enclosed by a non climbing type fence at least four (4) feet high. Fence openings or points of entry into the pool area enclosures shall be equipped with gates. The fence and gates shall be constructed of a minimum number 11 gauge woven wire mesh corrosion resistant material, or other materials approved by the inspector. Gates shall be equipped with self closing and self-latching devices placed at the top of the gate or otherwise inaccessible to small children. Fence post shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The openings between the bottom of the fence and the ground or other surface shall not be more than six inches. Required safety fencing shall be completely installed prior to filling the pool with water. Swimming pool fences shall comply with fence setback standards of Section 19 of this Ordinance.
- 9) Water Quality/Drainage.
 - a) Water in the pool shall be maintained in a suitable manner to avoid health hazard of any type.
 - b) Back flush or pool drainage water shall be directed onto the property on which the swimming pool is located.
 - c) Drainage of pools directly into public streets or other public drainage ways shall require written permission of City staff and/or Public Works Director. Draining the pool into the sanitary sewer is prohibited.

2. Multiple Family/Commercial Pools. For private swimming pools which are intended for and used by the occupants of a multiple family dwelling 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 those listed for single and two family dwellings provided in Section 515-17-7.D.1 of this Ordinance.
 - 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, adjacent 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.

E. 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.
- 1) All refuse, recyclable materials, and associated containers shall be stored within a structure or screened by a fence or wall as viewed from all adjacent property and the public right-of-way.
 - 2) All refuse and containers must be screened from view of adjacent 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.
 - 3) Exterior wall treatment shall be masonry construction or material similar to the principal building.
 - 4) Storage shall be located in the rear or side yard and shall observe all accessory building setback requirements.
 - 5) The location must be accessible for pick up hauling vehicles.
 - 6) All containers, fences and walls shall be approved by City staff and be kept in a good state of repair with lids designed to prevent spilling and spread of debris and access by animals.

SECTION 18
OUTDOOR LIGHTING

Section:

- 515-18-1: Purpose and Intent
- 515-18-2: Exemptions
- 515-18-3: Non-Conforming Uses
- 515-18-4: Light Trespass
- 515-18-5: Performance Standards
- 515-18-6: Submission of Plans

515-18-1: 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 night time safety, utility, security and productivity.

515-18-2: Exemptions. The provisions of this section shall not apply to the following:

- A. The use of temporary outdoor lighting used during customary holiday seasons.
- B. The use of temporary outdoor lighting used for civic celebrations and promotions.
- C. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
- D. Emergency lighting used by police, fire, and rescue authorities.

515-18-3: Non-Conforming Uses.

- A. 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.
- B. 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.

515-18-4: Light Trespass.

- A. 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 Section 515-18-4 B of this Ordinance.

- B. 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.

515-18-5: Performance Standards.

- A. Residential District 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:

- 1. 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. Business/Industrial District 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:

- 1. The luminaire shall contain a full cutoff fixture which directs and cuts off light at an angle of ninety (90) degrees or less.

- 2. The light source shall be controlled so as not to light adjacent property in excess of the maximum light levels defined by this Ordinance.

- 3. 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.

- 4. The maximum height of the fixture, pole and base above the ground grade permitted for light sources is thirty (30) feet. A light source mounted on a building shall not exceed the height of the building. In no case shall the height of a light source mounted on a pole or on a building exceed the height limits of the zoning district in which the use is located, unless allowed by conditional use permit.

- 5. Location.

- a. 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.

- b. No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by Administrative Permit.
 - 6. Direct or reflected light from high temperature processes such as combustion or welding shall not be visible from any adjoining property.
- C. 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 night time lighting. In such cases, an Administrative Permit shall be required and compliance with the following:
- 1. No outdoor recreation facility shall be illuminated after 12:00 AM, except for security lighting. Exceptions may be granted by City staff for special events.
 - 2. Off-street parking areas for outdoor recreation uses shall meet the requirements stated for business or industrial applications as found in Section 22 of this Ordinance.
 - 3. The provisions for an administrative use permit, Section 9 of this Ordinance, are considered and satisfactorily met.

515-18-6: Submission of Plans.

- A. 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 City staff:
 - 1. Site 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 twenty (20) feet.

SECTION 19
FENCES

Section:

- 515-19-1: Permit Required
- 515-19-2: Exemptions
- 515-19-3: Site Plan
- 515-19-4: Location
- 515-19-5: Construction and Maintenance
- 515-19-6: Access
- 515-19-7: Height

515-19-1: Permit Required. A fence permit is required for any fence, partition, structure, wall or gate constructed within the required yard.

515-19-2: 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 RA District are not subject to the provisions of this Section and do not require a fence permit.

515-19-3: Site Plan. An application for a fence permit shall be accompanied by a scaled site 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.

515-19-4: 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.

- A. No fence or wall shall be permitted on public rights-of-way.
- B. Traffic visibility requirements set forth in Section 515-16-5.D of this Ordinance shall be met.
- C. No fence or wall shall obstruct natural drainage or extend within a wetland, drainage ditch, stream, or river.
- D. Fences may be constructed within utility and drainage easements with the written permission of City staff.
- E. Wire fences other than chain link are not permitted within five (5) feet of the property line.

F. All fences shall be located at least four (4) feet from an alley right-of-way.

515-19-5: Construction and Maintenance.

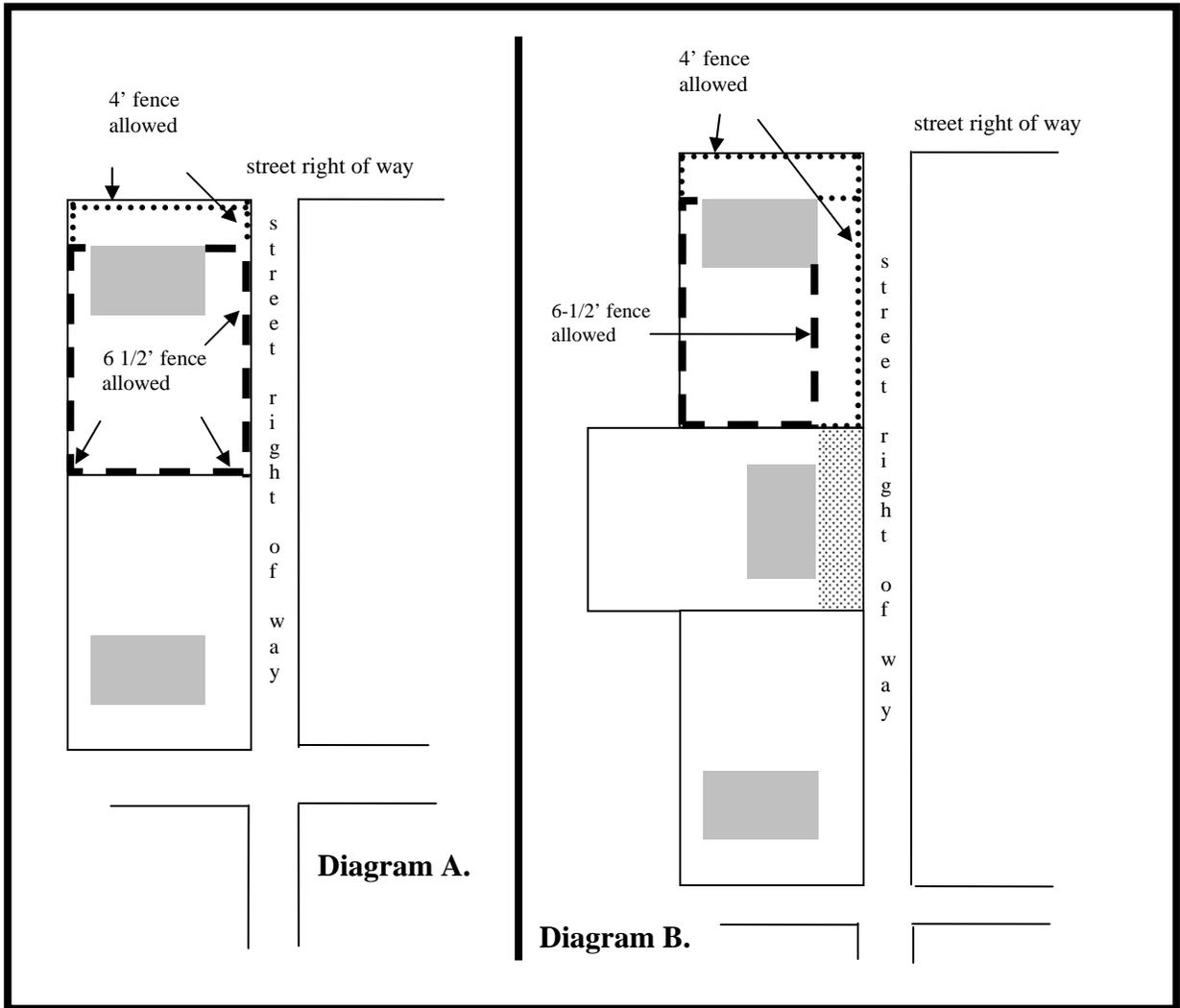
- A. Every fence shall be constructed in a professional manner and of substantial materials reasonably suitable for the purpose for which it is intended. The materials and design shall be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.
- B. Every fence shall be regularly maintained and shall not become or remain in a condition of disrepair, or constitute a nuisance.
- C. 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.
- D. Electric and barb wire fences are prohibited in residential districts.
- E. Within non-residential districts, barbed wire may be attached to the tops of fences with the following conditions:
 - 1. Fences shall be a minimum of eight (8) feet in height exclusive of the security arm.
 - 2. The security arm shall be angled in such a manner that it extends only over the property of the permit holder.
 - 3. Wire security fencing shall not be permitted within the required front yard or along a property line abutting a residential use.
- F. Solid walls, including retaining walls in excess of forty-eight (48) inches in height require a building permit.
- G. The good or finished side shall face the neighboring property.

515-19-6: Access. All fences that completely enclose an area shall contain a gate to provide public safety access.

515-19-7: Height.

- A. Fences may be located in any yard up to a height of four (4) feet.

- B. Except as prohibited by Section 515-19-7.E, a fence up to six and one half (6½) feet high may be erected from a line extended from the front facade of the principal building to the side lot lines, and then along the side lot lines and the rear lot line (see Diagram A).
- C. Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear or side lot equal to the required front yard of the abutting lot shall not contain a fence greater than four (4) feet. For the purpose of this section, the front and side yards of the abutting lot shall be as defined in this Ordinance rather than the house as built (see Diagram B).
- D. 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.
- E. Height Exceptions.
1. Fences for sport courts may be up to twelve (12) feet in height with ten (10) foot setback.
 2. 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 zoning district.
 3. 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.
 4. Fences taller than eight and one half (8½) feet non-residential districts require a Conditional Use Permit.



SECTION 20
LANDSCAPING, GREEN SPACE AND SCREENING REQUIREMENTS

Section:

515-20-1	Purpose and Intent
515-20-2	Minimum Requirements
515-20-3	General Landscaping
515-20-4	Green Space
515-20-5	Screening
515-20-6	One and Two Family Lots
515-20-7	Multiple Family Developments
515-20-8	Non-Residential Uses
515-20-9	Parking Lots
515-20-10	Screening of Equipment
515-20-11	Installation and Maintenance
515-20-12	Suggested and Undesirable Plant Material

515-20-1: 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.

515-20-2: 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.

515-20-3: General Landscaping.

- A. Except as may be required or permitted in this section, provided by development contract or approval by the City Council, the site area remaining after providing for 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 building occupancy. Fences, walls, 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.
- B. Required Tree Planting. Except for single family and two family dwellings, all lots, parcels and sites shall have a mixture of evergreen and deciduous trees planted at the rate of one (1) tree per three thousand (3,000) square feet or portion thereof of any unpaved open area remaining after development for which specific landscaping requirements do

not appear in this Section. Required trees may be planted at uniform intervals, at random, or in groupings. ~~When information is submitted to verify that existing trees are included in the list of City of Brainerd Suggested Plant Materials, no additional plantings will be required.~~ Newly planted trees shall comply with the requirements of this Ordinance.

515-20-4: Green Space.

- A. Non-Residential Site Development and Non-Residential Site Redevelopment. New developments shall designate a minimum of fifteen (15) percent of the total site area for green space. A minimum of fifty (50) percent of the required green space shall be located along the street frontage with the most traffic and visibility. The fifty (50) percent requirement shall be located across the street from or adjacent to residentially zoned or used property. Storm water retention areas when designed as rain gardens may be used to meet the green space requirement. When development or redevelopment occurs on existing sites the required green space may be reduced to ten (10) percent of the total site and the fifty (50) percent distribution requirements remain in effect.
- B. Incentives for Additional Green Space: In addition to the fifteen (15) percent minimum green space requirement, incentives are available for creating additional green space and/or adding landscaping to the site. For every five (5) percent increase in green space area, off street parking requirements can be reduced by ten (10) percent. Thirty (30) percent or greater green space provisions will allow up to a thirty (30) percent reduction in total parking spaces required.

515-20-5: Screening.

- A. Landscaping Plan. Prior to approval of a building permit, a landscape plan and specification requirements shall be approved including size of plantings, species and site location, as follows. Said landscape plan shall be developed with an emphasis upon the following areas:
 - 1. The boundary or perimeter of the proposed site adjoining other property.
 - 2. The immediate perimeter of the structure.
 - 3. The perimeter of parking and loading areas.
- B. All landscaping incorporated in said plan shall conform to the following standards and criteria:
 - 1. All plants must at least equal the following minimum size:

	<u>Potted/Bare Root or Balled or Burlapped</u>
Shade Trees*	2 inch diameter
Ornamental Trees (Flowering Crab, Hawthorn, etc.)	1½ inch diameter
Evergreen Trees	4 – 5 feet high
Tall Shrubs and Hedge Material (Evergreen or Deciduous)	3 – 4 feet high
Low Shrubs: Deciduous	24 – 30 inches
Evergreen	24 – 30 inches
Spreading Evergreens	18 – 24 inches

* Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, man-made irrigation, grading, etc.

2. Spacing.

- a. Landscape material used for required screening shall consist of two (2) rows of closely spaced, staggered evergreen plantings planted no more than fifteen (15) feet on-center which can be reasonably expected to form the required visual barrier measured at least six (6) feet above ground level within three (3) years of planting. A single row of evergreen screening planted ten (10) feet on center may be substituted if documentation is provided that insufficient room exists to plant a staggered double row. A single row of evergreen material shall provide a visual barrier measured at least six (6) feet above ground level within three (3) years of planning.
- b. Deciduous plant materials may be used provided that the minimum required year around opacity visual screen is maintained. Wherever screening is required adjacent to residentially zoned or used property, the screening shall be installed prior to the beginning of site grading and general construction, except where such activity would result in damage to the screening.

3. Design.

- a. All exterior areas within the property lines (or beyond, if side grading extends beyond) not paved or designated as drives, parking or storage, must be at a minimum be established with seed or sod.
- b. Newly established or created turf slopes in excess of three to one (3:1) are prohibited unless approved by City staff.
- c. All ground areas under the building roof overhang must be landscaped as described in this Ordinance.

- d. All buildings must have exterior water access to ensure that landscape maintenance can be accomplished.
4. 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.

515-20-6 One and Two Family Lots. Prior to issuance of a Certificate of Occupancy, one and two family dwelling lots shall have all yards started with seed or sod.

515-20-7: Multiple Family Developments.

- A. General Site Landscaping. In addition to the requirement in Section 515-20-3, four (4) shrubs shall be planted per dwelling unit. Shrubs used as required screening 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 six (6) foot high landscaped privacy screen shall be provided. The screen shall consist of a combination of trees, shrubs, berms and/or fences (no walls).

515-20-8: Non-Residential Uses In All Zoning Districts.

- A. General Site Landscaping. All developed portions of the site shall conform to the general landscaping requirements in Section 515-20-3 except where screening is required.
- B. 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 or used for residential purposes or is across an alley from land used or 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:

Type of Landscaping	Planting Requirements
Shrubs	5 per 40 lineal feet

* See Section 20-9 for parking lot requirements.

515-20-9: Parking Lots.

- A. All exposed parking areas of ten (10) or more required spaces in a front and side street yard shall be screened with landscaping not less than three (3) feet or more than four (4) feet in height. The landscaping shall maintain a year round fifty (50) percent opacity.
- B. When a parking lot is adjacent to or across an alley from a residential use or zone, the required screen height shall be increased to six (6) feet.
- C. A berm may be used as part of the screening for off-street parking in which case the berm shall be no more than two (2) feet in height. Landscaping on a berm shall maintain eighty (80) percent year round opacity not less than three (3) or more than four (4) feet in height.
- D. 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.
- E. Chain link fence with or without slats is not permitted to satisfy screening requirements.
- F. Landscape material is required along the outside of a fence with maximum spacing required as follows:

Type of Landscaping	Planting Requirements
Shrubs	5 per 40 lineal feet

- G. Off-street parking facilities with internal parking rows of twenty (20) or more spaces shall have irrigated landscaped islands at the ends of the rows. Landscaped islands shall be a minimum of six (6) feet wide and extend the length of the parking row. The islands shall be contained within raised, curbed beds.
- H. In lieu of irrigated islands, drought tolerant plant material may be used. Plant material information shall be provided to verify drought tolerance.
- I. At least fifty (50) percent of each interior landscaped area shall be covered by living plant material, such as sod shrubs, ground cover or trees.
- J. 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.
- K. No landscaping or screening shall interfere with drive or pedestrian visibility for vehicle entering, circulating or exiting the premises.

515-20-10: Screening of Equipment. 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.

515-10-11: Installation and Maintenance. The following standards shall be observed where installation and maintenance of landscape materials are required:

- A. 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. Landscaping along the perimeter shall be installed prior to construction, except where such landscaping would be destroyed during construction.
- B. Protection from Vehicles. Landscaping shall be protected from vehicles through use of curbs or wheel stops in parking lots. Landscape areas shall be elevated above the pavement to a height that is adequate to protect the plants from snow removal, salt, and other hazards.
- C. Seeding or Sodding/Off-Season Planting Requirements. Lots or parcels shall be established with seed or sod prior to 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.
- D. 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.
- E. All landscaped areas shall be provided with a readily available and acceptable supply of water, with at least one spigot located within three hundred (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.
- F. Maintenance of a required buffer plantings shall be the responsibility of the individual property owners or, if applicable, the homeowner's association.

- G. 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.

SECTION 21
TREE PRESERVATION

Section:

- 515-21-1: Purpose and Intent
- 515-21-2: Definitions
- 515-21-3: Tree Preservation Plan
- 515-21-4: Allowable Tree Removal
- 515-21-5: Tree Replacement Schedule
- 515-21-6: Prohibited Actions

515-21-1: Purpose and Intent. It is in the best interest of the City to protect, preserve and enhance the natural environment of the community and to encourage a resourceful and prudent approach to the development and alteration of wooded areas. In the interest of achieving these objectives, the City has established the comprehensive tree preservation regulations herein to promote the furtherance of the following:

- A. Protection and preservation of the environment and natural beauty of the City;
- B. Assurance of orderly development within wooded areas to minimize tree and habitat loss;
- C. Evaluation of the impacts to trees and wooded areas resulting from development;
- D. Establishment of minimal standards for tree preservation and the mitigation of environmental impacts resulting from tree removal;
- E. Provision of incentives for creative land use and environmentally compatible site design which preserves trees and minimizes tree removal and clear cutting during development; and
- F. Enforcement of tree preservation standards to promote and protect the public health, safety and welfare of the community.

515-21-2: Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

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.

Builder. Any person or entity to which a building permit is issued for the construction of a single family residence.

Caliper Inch. The diameter of replacement trees measured at a height of one (1) foot above the ground level.

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.

Critical Root Zone or 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.

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 constructing or improving any building thereon.

Development. Individual lot single family residence development, single-phase development and two-phase development as those terms are defined herein.

Diameter. The length of a straight line measured through the trunk of a tree at fifty-four (54) inches above the ground.

Diameter Inch. The diameter, in inches, of a tree measured at diameter breast heights (four and one-half [4.5] feet from the uphill side of the existing ground level).

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.

Individual Lot Single-Family Residence Development. The process where the construction of a new single family residence occurs on a single lot.

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.

Single-Phase Development. The process where improvement of the entire site occurs in one continuing process. Activities which can occur during single-phase development include initial site grading; installation of utilities; construction of public streets; construction and installation of utilities; construction of public streets; construction and grading of drainage ways; filling of any areas, grading of the pad area; utility hookups; construction of buildings, parking lots, driveways, storage areas, recreation areas, private streets; and any other activity within the construction area.

Tree. Any of the following type of trees, as each is defined herein:

1. Coniferous Tree. A woody plant which, at maturity, is at least twelve (12) feet or more in height, having foliage on the outermost portion of the branches year round.
2. Deciduous Tree. A woody plant which, at maturity, is at least fifteen (15) feet or more in height, having a defined crown, and which sheds leaves annually.
3. Significant Tree. A healthy tree measuring a minimum of six (6) inches in diameter for deciduous trees, or a minimum of twelve (12) feet in height for coniferous trees.
4. 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 six (6) inches or larger in diameter or coniferous trees twelve (12) feet or higher in height.
5. Specimen Tree. A healthy hardwood tree measuring equal to or greater than thirty (30) inches in diameter and/or a coniferous tree measuring fifty (50) feet or greater in height.

Two-Phase Development. The process where improvement of the entire site occurs in at least two distinct phases. Generally, the first phase includes initial site grading; installation of utilities; construction of public streets; construction, grading of drainage ways; and filling of any areas. The second phase generally includes grading of specific pad areas; utility hookups; construction of buildings, parking lots, driveways, storage areas, recreation areas, private streets; and any other activity within the specific construction zone.

515-21-3: Tree Preservation Plan.

- A. Scope of Application. A tree preservation plan prepared by a qualified individual or firm shall be submitted to and approved by the City and implemented in accordance therewith in connection with any of the following:
1. New RESIDENTIAL construction in any zoning district except:
 - a. DEVELOPED one and two family ~~dwellings on existing~~ platted property or parcels of record; and
 - b. PLATTED PROPERTY AND PARCELS OF RECORD THAT CANNOT BE DIVIDED INTO THREE OR MORE BUILDABLE LOTS.
 2. Non residential development in any zoning district;

B. Plan Requirements. All applicants shall submit a tree preservation plan prepared in accordance with the provisions of this section. The tree preservation plan shall include the following information:

1. The name(s), telephone number(s) and address(es) of applicants, property owners, developers and/or builders;
2. Delineation of the buildings, structures or impervious surfaces situated thereon or contemplated to be built thereon;
3. Delineation of all areas to be graded and limits of land disturbance;
4. Size, species and location of all existing significant trees, specimen trees and significant woodlands located within the area to be platted or within the parcel of record; (These significant trees, specimen trees and significant woodlands should be identified in both graphic and tabular form.)
5. Identification of all significant trees, specimen trees and significant woodlands proposed to be removed within the construction area; (These significant trees, specimen trees and significant woodlands should be identified in both graphic and tabular form.)
6. Measures to protect significant trees, specimen trees and significant woodlands;
7. Size, species and location of all replacement trees proposed to be planted on the property in accordance with the tree replacement schedule;
8. Signature of the person(s) preparing the plan; and
9. Location of utility services and easements.

C. Replacement/Mitigation Alternatives. In any development where the tree/woodland allowable removal limits are exceeded, the applicant shall mitigate the tree loss by:

1. Reforestation (Tree Replacement). In accordance with the tree replacement schedules, reforestation of areas approved by the City within or outside the development area is permitted. A financial security is required to cover the cost of reforestation. The financial guarantee amount will be based on the fee per diameter inch set forth in the City fee schedule.
2. Cash Payment. Tree loss may be mitigated via cash payment to the City. Such payment shall equal the total required diameter inches to be replaced multiplied by the fee per diameter inch set forth in the City fee schedule. The cash payment shall be utilized by the Park Board for only forestry or tree planting projects.

3. Twenty five (25) percent of cash payments shall be set aside for grants to property owners to replace trees destroyed by an act of nature. Funds may be used only for tree purchases.
 4. The form of mitigation to be provided by the applicant shall be approved by the City.
 5. The planting of trees for mitigation shall be in addition to any other landscape requirements of the City.
 6. Significant tree replacement will be calculated by replacing the largest diameter tree first, proceeding down to the smallest diameter significant tree.
- D. Off Site Planting. Replacement trees may be planted within the City on land under control by the applicant or on land owned by the City of Brainerd.
- E. Required Protective Measures. The tree preservation plan shall identify and require the following measures to be utilized to protect significant trees, specimen trees and significant woodlands:
1. Installation of snow fencing or polyethylene laminate safety netting or silt fencing placed at the drip line of at the perimeter of the critical root zone (CRZ). No grade change, construction activity or storage of materials shall occur within this fenced area.
 2. Identification of any oak trees requiring pruning between April 15 and July 1. Any oak trees so pruned shall be required to have any cut areas sealed with an appropriate non-toxic tree wound sealant.
 3. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
 4. Installation of erosion control measures.
 5. Installation of signs at all tree protection areas that instruct workers to stay out.
- F. Additional Protective Measures. The following tree protection measures are suggested to protect significant trees, specimen trees and significant woodlands that are intended to be preserved according to the submitted tree preservation plan and may be required by the City:
1. Installation of retaining walls or tree wells to preserve trees.
 2. Placement of utilities in common trenches outside of the drip line of significant trees or use of tunneled installation.

3. Use of tree root aeration, fertilization and/or irrigation systems.
 4. Transplanting of significant trees into a protected area for later moving into permanent sites within the construction area.
 5. Therapeutic pruning.
- G. Protection Timeline. Trees identified on a tree preservation plan shall be protected throughout the development and construction process. the City's enforcement of the tree protection plan shall cease upon the issuance of a certificate of occupancy.
- H. Review Process. The tree preservation plan shall be reviewed by the City to assess the best possible layout to preserve significant trees, specimen trees and significant woodlands and to enhance the efforts to minimize damage to specimen trees, significant trees and significant woodlands. The applicant shall meet with City staff prior to submission of the development application or prior to application for the grading permit, whichever is sooner, to determine the most feasible and practical placement of buildings, parking, driveways, streets, storage and other physical features, in order that the fewest significant trees, specimen trees and significant woodlands are destroyed or damaged.
- I. Performance Guarantee. Any applicant of a new development shall provide the required performance guarantee following preliminary approval of the tree preservation plan and prior to any construction and/or grading. The amount of the performance guarantee to be submitted, specific to the tree preservation fulfillments, shall be calculated as follows:
1. Unless the applicant provides tree mitigation/replacement in the form of cash dedication, one hundred (100) percent of the cost of completing tree replacement mitigation/replacement as determined by the city.
 2. An amount shall be provided to guarantee preservation of all trees identified by the approved tree preservation plan to be preserved within fifteen (15) feet of the construction zone (measured from the construction limit to the nearest side of the tree).
 3. The amount shall be based on the fee schedule and is determined by multiplying the total diameter inches of significant trees and specimen trees to be preserved within this fifteen (15) feet zone by the rate established in the fee schedule.
 4. No performance guarantee shall be required for applicants of building permits of single family residential units.
 5. Following a written request by the applicant for acceptance, the performance guarantee will be released upon verification by the City that the tree preservation plan was followed and that the tree replacement schedule was complied with, where necessary, but in no event shall the performance guarantee be released earlier than one year after the date of the project closure.

- J. Removal of Diseased Trees Required. Prior to any grading, all diseased, hazard and nuisance trees on the subject property shall be identified by the Park Department in accordance with the tree disease control and prevention regulations of the City Code. Any and all diseased and nuisance trees so identified shall be removed from the property, at the time of grading, if so directed.
- K. Compliance with Plan.
1. The applicant shall implement the tree preservation plan prior to and during any construction. The tree protection measures shall remain in place until all grading and construction activity is terminated or until a request is made to and approved by the City.
 2. No significant trees, specimen trees or significant woodlands shall be removed until a tree preservation plan is approved and except in accordance with the approve tree preservation plan as approved by the City. If a significant tree(s), specimen tree(s) or any significant woodlands that were intended to be preserved is removed without permission of the City or damaged so that it is in a state of decline within one (1) year from date of project closure, a cash mitigation, calculated per diameter inch of the removed/destroyed tree or per total square foot of significant woodlands, in the amount set forth in the City fee schedule, shall be remitted to the City.
 3. The City shall have the right to inspect the development and/or building site in order to determine compliance with the approved tree preservation plan. The City shall determine whether compliance with the tree preservation plan has been met.

515-21-4: Required Tree Preservation. Specimen tree, significant tree and significant woodland preservation shall be in accordance with the City approved tree preservation plan. The following percentages of significant and specimen tree coverage shall remain undisturbed:

- A. Single Lot Development/Existing Lots and Parcels:
1. Single-unit residential: Eighty (80) percent.
 2. Commercial and multi-unit residential: Seventy (70) percent.
- B. Multi-Lot Development/Subdivision/PUD:
1. Single Unit Residential: Sixty (60) percent.
 2. Commercial and Multi-Unit Residential: Fifty (50) percent.

515-21-5: Tree Replacement Schedule.

<i>Size or Tree Damaged or Destroyed</i>	<i>Number of Replacement Trees</i>		
	<i>Category A</i>	<i>Category B</i>	<i>Category C</i>
Coniferous - 12 to 24 feet high	1	2	4
Coniferous - 24 feet or higher	2	4	8
Hardwood Deciduous - 6 to 20 inches diameter	1	2	4
Hardwood Deciduous - 21 to 30 inches diameter	2	4	8
Softwood Deciduous - 12 to 24 inches diameter	1	2	4
Softwood Deciduous - 24 inches diameter	2	4	8
Specimen Tree	3	6	12

- A. Size of Replacement Trees. Category A trees shall be no less than the following sizes:
 - 1. Deciduous Trees: Not less than four (4) inches in diameter.
 - 2. Coniferous Trees: Not less than twelve (12) feet in height.
- B. Category B trees shall be no less than the following sizes:
 - 1. Deciduous Trees: Not less than two and one-half (2.5) inches in diameter.
 - 2. Coniferous Trees: Not less than six (6) feet in height.
- C. Category C trees shall be no less than the following sizes:
 - 1. Deciduous Trees: Not less than one and one-half (1.5) inches in diameter.
 - 2. Coniferous Trees: Not less than four (4) feet in height.
- D. Replacement trees shall be from the list of species identified in Section 20 of this Ordinance.
- E. Species Requirement. Where ten (10) or more replacement trees are required, not more than forty (40) percent of the replacement trees shall be of same species of tree without the approval of the City.
- F. Warranty Requirement. Any replacement tree which is not alive or healthy, as determined by the City, or which subsequently dies due to construction activity within two (2) years after the date of project closure, shall be removed by the owner and replaced with a new healthy tree meeting the same minimum size requirements within eight (8) months of removal.

515-21-6: Prohibited Actions.

- A. No soil disturbance shall occur within the subdivision until the tree protection, preservation, replacement, and/or reforestation plan(s) are approved, financial securities have been submitted and development agreement approved, and tree protection measures are in place on site.
- B. Construction staging areas and areas for the storage of equipment and stockpiling of materials shall not be within tree protection areas.
- C. Fill shall not be placed against tree trunks, under the drip line, or in critical root zones of trees to be saved.
- D. Pruning of oak trees shall not take place from April 1 through July 15. If wounding of oak trees occurs, a non-toxic tree wound dressing shall be applied immediately. Excavators shall have a non-toxic tree wound dressing with them on the development site.

SECTION 22
PARKING

Section:

- 515-22-1: Purpose and Intent
- 515-22-2: Application of Off-Street Parking Regulations
- 515-22-3: General Provisions
- 515-22-4: Access and Driveway Design
- 515-22-5: Parking Surface Design Standards
- 515-22-6: Maintenance
- 515-22-7: Location
- 515-22-8: Number of Spaces Required
- 515-22-9: Parking Deferment
- 515-22-10: Joint Facilities
- 515-22-11: Off-Site Parking

515-22-1: 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.

515-22-2: Application of Off-Street Parking Regulations. The regulations and requirements set forth herein shall apply to all off-street parking facilities, other than one and two family dwellings, in all of the zoning districts of the City.

- A. Site 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 10 of this Ordinance.
- B. Exemptions from Parking Requirements. All business uses located within the B-3, Central Business District shall be exempt from the following off-street parking requirements of this Ordinance.

515-22-3: General Provisions.

- A. 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.
- B. 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 15 of this Ordinance, except that in so doing, any off-street parking or loading which existed shall be retained.

- C. 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 these zoning regulations.
- D. 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.
- E. 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 Statutes 168.021, as may be amended.
- F. Parking in Residential Districts. Off-street parking areas accessory to a residential use shall be utilized solely for the parking of passenger automobiles, recreational vehicles, and/or one truck not to exceed twelve thousand (12,000) pounds gross weight rating for each dwelling.
- G. Use of Required Parking Facilities in Commercial and Industrial Districts. 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.
- H. 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.

515-22-4: Access and Driveway Design.

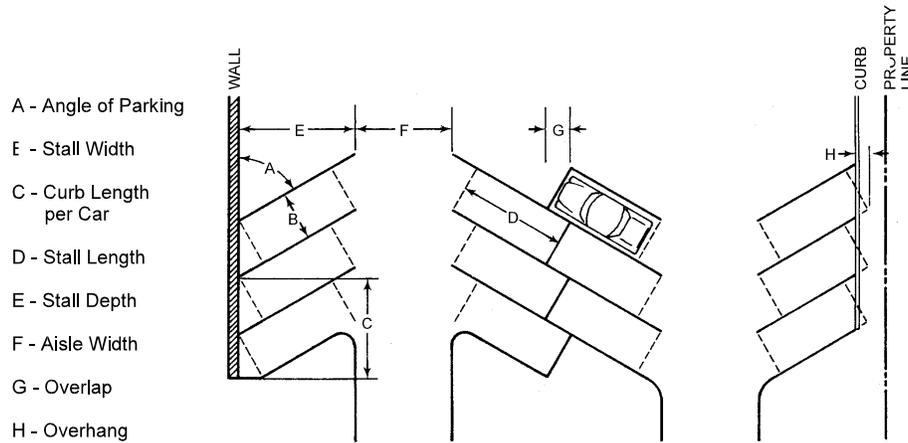
- A. Collector/Minor Arterial Street Access. Access to any street shown as a collector or arterial roadway on the City's Comprehensive Plan shall require review and comment by the affected agency (County Highway Engineer or MnDOT) and City. This review shall be required prior to the issuance of any building 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.
- B. 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, two family, townhouse, and quadraminium dwellings, parking area design which requires backing into the public street is prohibited.
- C. MNDOT HIGHWAY ACCESS. A MNDOT PERMIT IS REQUIRED TO CREATE, MODIFY OR TO CHANGE AN ACCESS TO A STATE HIGHWAY
- D. Curb Cut/Driveway Access Location.
 - 1. No residential curb cut/driveway access shall be located less than thirty (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 sixty (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.
 - a. Street functional classification shall be defined by the City's Comprehensive Plan.
 - b. The setback measurement shall be measured from the edge of the street right-of-way to the nearest edge of the curb cut.
 - c. 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 site plan is submitted for review and approval of the City Engineer. Approval is also subject to the provisions of this Ordinance.

2. Residential uses in R-1 and R-2 Zoning Districts may construct driveways and parking areas up to the property line, but shall not encroach within drainage and utility easements.
 3. 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.
 3. 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 one hundred twenty-five (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 one hundred twenty-five (125) feet.
- E. Curb Cut/Driveway Width. No curb cut shall exceed thirty (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 thirty-six (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 as outlined in Section 20-22-4.A of this Ordinance.

515-22-5: Parking Surface Design Standards.

- A. Parking Area Standards. Parking areas and the aisles shall be developed in compliance with the following 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"	9' 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"



- B. 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.
- C. 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.
- D. Grade Elevation. Excepting driveways for single family and two family dwellings, the grade elevation of a parking area shall not exceed five (5) percent.
- E. Surfacing.
 - 1. One and two family residential parking surface requirements. An improved parking surface for residential parking in all residential districts except R-A and R-R 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.

Grass is not an approved surface for any parking purposes.

 - a. No more than forty (40) percent of a property can be improved parking surfaces.
 - b. Parking is permitted on an improved and unimproved surface in the rear yard.
 - c. 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.

- d. 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.
 - e. A driveway without a garage shall extend into the yard alongside a dwelling a distance of twenty-four (24) feet.
 - f. Parking along an interior side of a house is permitted on an improved surface.
- 2. 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.
 - 3. 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.
 - 4. Plans for surfacing and drainage of driveways shall be reviewed and approved by City staff prior to issuance of a building permit. Said surfacing shall be completed within one (1) year following the date of building occupancy permit.
- F. 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.
 - G. 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 18 of this Ordinance.
 - H. 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 City staff. 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.

515-22-6: 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.

515-22-7: Ownership.

- A. 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 515-22-10 and 515-22-11 of this Ordinance.

515-22-8: 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:

- A. 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.
- B. 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.
- C. Boarding House. At least one and one-half (1½) parking spaces per boarding room.
- D. Bowling Alleys. Five (5) spaces for each alley plus additional spaces for related uses.
- E. Car Washes (Drive Through and Self Service). One space per employee plus: Drive through: Six (6) stacking spaces. Self-service: One (1) stacking space per wash bay.
- F. 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.
- G. 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.
- H. Contractors' Offices, Shops and Yards. One (1) per one thousand (1,000) square feet of shop area or warehousing, plus one (1) per three hundred (300) square feet of office space.
- I. Day Care Facilities.
 - 1. Day care facilities serving fourteen (14) or fewer persons: In addition to residential parking requirements, one (1) space per seven (7) children capacity.
 - 2. 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.

- J. Elderly (Senior Citizen) Housing. Reservation of area equal to one (1) parking space per unit. Initial development is, however, required of only one-half (1/2) space per unit and said number of spaces can continue until such time as the City Council considers a need for additional parking spaces has been demonstrated.
- K. Financial Institutions, Banks, Savings and Loan. Four (4) spaces for every one thousand (1,000) square feet.
- L. Funeral Undertaking Establishments. At least twenty (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.
- M. Furniture Store/Household Appliances. One (1) space per four hundred (400) square feet of gross sales floor area. One (1) space per one thousand five hundred (1,500) square feet of warehousing.
- N. Garden Supply Stores, Building Material Sales in Structures. Eight (8) off-street parking spaces, plus one (1) additional space for eight hundred (800) square feet of floor area over one thousand (1,000) square feet.
- O. Golf Courses. Four (4) spaces per hole, plus fifty (50) percent of the requirements for any other associated use.
- P. 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.
- Q. Health Clubs. One (1) space per two (2) exercise stations (e.g., strength machine or cardio vascular) plus one (1) space per employee on the largest shift plus additional parking for ancillary uses (e.g., gymnasiums, auditoriums, offices, restaurants).
- R. HOSPITALS. THREE (3) SPACES PER BED.
- S. Manufacturing Facilities. One (1) space for each eight hundred (800) square feet of gross floor area, plus one (1) space for every company owned vehicle.
- T. 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.
- U. 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.
- V. Office Buildings, Animal Hospitals and Clinics, Professional Offices and Medical Clinics. One (1) space for each two hundred (200) square feet of floor area.

- W. Sales Lots. Ten (10) spaces or one (1) per two thousand (2,000) square feet gross land area devoted to sales lot, whichever is larger.
- X. Racquetball, Handball and Tennis Courts, Commercial. Not less than six (6) spaces per each court.
- Y. 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.
- Z. Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On-Sale Nightclubs. One (1) space for each forty (40) square feet of dining or bar area and one (1) space for each eighty (80) square feet of kitchen area.
- AA. Restaurants, Fast Food. Fifteen (15) spaces per one thousand (1,000) square feet of gross floor area.
- BB. 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 for each two hundred (200) square feet devoted to public sales or service, plus one (1) space for each five hundred (500) square feet of storage area.
- CC. Retail Stores and Service Establishments. At least one (1) off-street parking space for each two hundred (200) square feet of floor area.
- DD. Schools, Elementary and Junior High. One (1) space for each classroom plus one (1) additional space for each three hundred (300) students, plus one (1) space for each employee, plus one (1) space for each four (4) seats in auditorium.
- EE. School, High Schools, Colleges and Universities: At least one (1) parking space for each two students based on the design capacity plus one (1) space for each classroom. Auditorium or event space shall be subject to separate, additional calculations.
- FF. Shopping Centers. Five and one half (5 ½) spaces per each one thousand (1,000) square feet of gross leasable floor area (exclusive of common areas).
- GG. Single Family, Two Family Dwellings, and Accessory Apartments. Two (2) spaces per unit.
- HH. Theaters, Civic Centers, Auditoriums, Stadiums, Sports Arenas or Similar Uses: One space for each four (4) seats plus one space for each two (2) employees.
- II. Townhome, Quadraminium, Manor Home, Multiple Family Dwellings, and Manufactured Homes within Manufactured Home Parks. At least two and one-fourth (2-1/4) 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.

- JJ. 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 for each one thousand five hundred (1,500) square feet of floor area, and one (1) space for each company owned truck (if not stored inside principal building) or one space for each employee, whichever is greater.
- KK. 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.

515-22-9: 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:

- A. The applicant demonstrates that the proposed use will have a peak parking demand less than the required parking under Section 515-22-8 of this Ordinance. Factors to be considered when reviewing the proposed parking demand shall include, but not be limited to:
 - 1. Size of building.
 - 2. Type of use.
 - 3. Number of employees.
 - 4. Projected volume and turnover of customer traffic.
 - 5. Projected frequency and volume of delivery or service vehicles.
 - 6. Number of company-owned vehicles.
 - 7. Storage of vehicles on site.
- B. 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.
- C. 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:
 - 1. A parking plan drawn to scale for the property is submitted with the site 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.

2. 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.
 3. The proof of parking area shall be clearly delineated on the parking plan for the site.
 4. The paved portion of the parking area shall comply with the pertinent sections of this Ordinance.
 5. 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.
- D. 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.
- E. On-site parking shall only occur in areas designed and constructed for parking in accordance with this Ordinance.
- F. 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.
- G. A change of use will necessitate compliance with the applicable Zoning Ordinance standard for parking.

515-22-10: 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:

- A. The proposed joint parking space within the distance required under 515-22-11 of this Ordinance of the uses it will serve.
- B. 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.

- C. 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.

515-22-11: Off-Site Parking. Any off-site parking which is used to meet the requirements of this Ordinance shall be subject to the following conditions:

- A. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Ordinance.
- B. Reasonable public access from off-site parking facilities to the use being served shall be provided.
- C. 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.
- E. Off-site parking for multiple family dwellings shall not be located more than four hundred (400) feet from any normally used entrance of the principal building(s) served.
- F. Off-site parking for non-residential uses shall not be located more than eight hundred (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.
- G. 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.

SECTION 23
OFF-STREET LOADING

Section:

- 515-23-1: Purpose and Intent
- 515-23-2: Location
- 515-23-3: Surfacing
- 515-23-4: Accessory Use, Parking and Storage
- 515-23-5: Screening
- 515-23-6: Size

515-23-1: Purpose and Intent. The regulation of off-street loading areas is to alleviate or prevent congestion of the public right-of-way so as 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.

515-23-2: Location.

- A. 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 fifty (50) feet from the intersection of two (2) street right-of-ways and at least fifty (50) feet from a residential district unless within a building.
- B. Loading areas shall not occupy areas within the required front yard setbacks.
- C. 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.
- D. Loading areas located at the front or side of a building on a corner lot shall meet the following conditions:
 - 1. Loading areas shall not conflict with pedestrian movement.
 - 2. Loading areas shall not obstruct the view of the public right-of-way from off-street parking access.
 - 3. Loading areas shall comply with all other requirements of this Ordinance.

515-23-3: 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.

515-23-4: Accessory Use, Parking and Storage. Any space allocated as a loading ~~berth~~ area or maneuvering area so as to comply with the terms of this Ordinance 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.

515-23-5: 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 20 of this Ordinance.

515-23-6: Size. Unless otherwise specified in this Ordinance, a required loading area shall be not less than twelve (12) feet in width, fifty (50) feet in length and fourteen (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.

SECTION 24
OUTDOOR STORAGE

Section:

- 515-24-1: Purpose and Intent
- 515-24-2: Residential Zoning Districts
- 515-24-3: Commercial and Industrial Zoning Districts
- 515-24-4: All Zoning Districts

515-24-1: Purpose and Intent. This section is intended to provide regulations for the allowance of outdoor storage on properties in the City, while assuring that such storage is not a hazard to the public health and safety and does not have a depreciating effect upon adjacent property values, does not impair scenic views or constitute a nuisance.

515-24-2: Residential Zoning Districts.

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 adjacent properties or right-of-way, except for the following:

1. Clothes lines.
2. Recreational equipment (does not include recreational vehicles).
3. Construction and landscaping materials or equipment currently being used on the premises (within a period of one year).
4. Agricultural equipment and materials currently being used on the premises (within a period of one year).
5. Rear or side yard storage of firewood for the purpose of consumption only by the person or persons residing on the premises.
6. 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, surfaced in compliance with Section 22 of this Ordinance.
7. One (1) licensed fish house may be stored in the rear yard provided it meets the accessory building setbacks outlined in Section 515-17-7.B.4 of this Ordinance. 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.
8. Tarps or coverings over outdoor storage shall be of a color that matches the required screening material whether it is landscaping or fencing.

B. **Recreational Vehicle Storage.** Recreational vehicles, as defined by Section 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 22 of this Ordinance.
 5. Vehicles located in the front yard or side yard abutting a street must be placed at least fifteen (15) feet from the back of curb and shall not encroach on any public 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.
- C. 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.
- D. In all residential zoning districts, a vacant noncontiguous lot or parcel shall not be used for storage of parking.

515-24-3: Commercial and Industrial Zoning Districts.

- A. Exterior storage shall be governed by the respective zoning district in which the use is located.
- B. All exterior storage shall be screened so as not to be visible from adjacent properties and right-of-way, except for the following:
1. Merchandise being displayed for sale in accordance with zoning district requirements.
 2. Materials and equipment currently being used for landscaping or construction on the premises (within a period of one year).

515-24-4: All Zoning Districts.

- A. No recreational vehicle may be used as a residence, office or business and shall not be used for storage of items in conjunction with a residential, business, commercial or industrial enterprise except as allowed by Section 515-24-2.C.
- 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 City staff.
- 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 22 of this Ordinance.
 4. The site is landscaped in a manner than enhances the trailer/office subject to the approval of City staff.
 5. The applicant shall provide a schedule for the removal of the trailer and reclamation of the site consistent with the approved site plan or subdivision.
- D. 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.

SECTION 25
RESERVED

SECTION 26
HOME BUSINESSES AND HOME EXTENDED BUSINESSES

Section:

- 515-26-1: Purpose and Intent
- 515-26-2: Application
- 515-26-3: Procedures and Permits
- 515-26-4: Requirements-General Provisions
- 515-26-5: Inspection
- 515-26-6: Revocations

515-26-1: Purpose and Intent. The purpose of this Section is to provide a means through the establishment of specific standards by which home businesses and home extended businesses can be conducted in residential neighborhoods without jeopardizing land use harmony and compatibility and the health, safety and general welfare of the surrounding neighborhood.

515-26-2: Application. Subject to Section 15, 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.

515-26-3: Procedures and Permits.

- A. Permitted Home Business. Any permitted home business as defined in Section 515-2-2 of this Ordinance shall require a “home business license”. Such license shall be issued subject to the provisions of this Section, applicable City Code provisions and State law. Application for the license shall be accompanied by a fee as adopted by Ordinance. This license may be issued by City staff based up on proof of compliance with the provisions of this Section. The license shall remain in full force and effect until such a time that the activity has ceased for a period of one (1) year, there has been a change in condition (including the sale of the property or change in tenancy of the unit), a violation of conditions, or until such a time that the provisions of this Section have changed. At such a time that the City has reason to believe that an event has taken place which violates the intent of this Ordinance, a public hearing shall be held before the Planning Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the license.
- B. Permitted Home Extended Business. Any permitted home extended business as defined by Section 515-2-2 of this Ordinance shall require approval of an Interim Use Permit as regulated by Section 6 of this Ordinance.

515-26-4: Requirements-General Provisions.

A. Home Businesses.

1. Any lawful occupation or profession conducted within a dwelling unit by the owner AND/OR OCCUPANT who resides at the dwelling. ALL SUCH OCCUPANTS SHALL OBTAIN WRITTEN APPROVAL OF THE PROPERTY OWNER AND PROVIDE EVIDENCE OF SUCH APPROVAL TO THE CITY PRIOR TO ISSUANCE OF A PERMIT.
2. 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.
3. Other than signs permitted in residential districts, evidence of the occupation shall not be visible from the perimeter of the lot. Evidence of the occupation means outdoor storage of materials, equipment or merchandise.
4. Such occupation must provide up to two (2) off-street parking spaces. Parking of one commercial vehicle not to exceed twelve thousand (12,000) pounds may be allowed per premises.
5. No accessory building shall be used for a home business.
6. 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.
7. No mechanical or electrical equipment shall be used that interferes with the desired quiet residential environment of the neighborhood or if it endangers the health and safety of the occupants or neighborhood residents.
8. A person having a home business shall provide proof of meeting the above requirements if complaints are received by the City Council.

B. Home Extended Businesses.

1. Any lawful occupation or profession engaged within a dwelling unit by the property owner AND/OR OCCUPANT which involves any of the following:
 - a. The storage of stock-in-trade incidental to the performance of the service.
 - b. Repair or manufacturing which requires equipment other than that customarily found in a home.

- c. The employment on the premises at any one time, of not more than one person who is a non-resident of the premises.
 - d. The need for not more than three (3) parking spaces in addition to spaces required for the persons residing on the premises.
2. Only articles made or services provided on the premises shall be sold on the premises.
 3. The proposed activity shall be clearly incidental and secondary to the residential use of the premises.
 4. An attached garage and/or an accessory building may be used for a home extended business.
 5. Shall not consist of over-the-counter sales of merchandise produced off the premises.
 6. A home extended business shall be subject to the approval of an Interim Use Permit and any conditions imposed on the approved permit.
 7. 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 INTERIM USE PERMIT.
 8. Expiration of the interim use permit may include sale of the property, change in tenancy of the property, or an event or date agreed upon by the applicant and the City.

515-26-5: Inspection. The City hereby reserves the right upon issuing any home business license or approving a home extended business license to inspect during reasonable hours, without notice, the premises in which the occupation is being conducted to insure compliance with the provisions of this Section and any conditions additionally imposed.

515-26-6: Revocations.

- A. Permitted home business licenses and home extended business approvals shall remain in effect until:
 1. Such time as the business is not in compliance with any portion of this Ordinance, or any applicable state or federal regulation.
 2. Such time that there is a violation of the terms and conditions of license or permit approval.

3. 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.
 4. Such time as the license or permit expires as regulated by Section 515-26-4.B.7.
- B. At such time that the City has cause to believe that any of the events listed in 1, 2 or 3 above have taken place, the City shall immediately notify the license or permit holder of the allegations of violation and the necessary corrections required to bring the license or permit into compliance.

SECTION 27
MODEL HOMES

Section:

515-27-1: Purpose and Intent

515-27-2: Procedure

515-27-3: Special Requirements

515-27-1: Purpose and Intent. The purpose of this Section is to provide for the erection of model homes in new subdivisions without adversely affecting the character of surrounding residential neighborhoods or creating a nuisance. As model homes represent a unique temporary commercial use, special consideration must be given to the peculiar problems associated with them and special standards must be applied to ensure reasonable compatibility with surrounding land uses.

515-27-2: Procedure. The erection of a model home(s) shall require approval of an administrative permit as regulated by Section 9 of this Ordinance.

515-27-3: Special Requirements.

- A. Temporary parking facilities equal to four (4) spaces per model home dwelling unit shall be provided. The overall location, design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of City staff.
- B. Traffic generated by the model home shall be directed away from residential neighborhoods to the greatest extent possible.
- C. No model home shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in Section 18 of this Ordinance.
- D. All model home signage shall comply with the sign regulations as contained in the provisions Section 40 of this Ordinance.

SECTION 28
RESERVED

SECTION 29
COMMERCIAL DAY CARE FACILITIES

Section:

- 515-29-1: Purpose and Intent
- 515-29-2: Application
- 515-29-3: Declaration of Conditions
- 515-29-4: Site Plan Drawing Necessary
- 515-29-5: General Provisions
- 515-29-6: Non-Conforming Use
- 515-29-7: Inspection

515-29-1: 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.

515-29-2: Application. Commercial day care facilities shall be considered an allowed conditional use within the B-1, B-2, B-3, B-4, I-1 and I-2 Districts of the City and shall be subject to the regulations and requirements of Section 5 of this Ordinance. 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.

515-29-3: Declaration of Conditions. The Planning Commission may recommend and the City Council may impose such conditions on the granting of a day care facility Conditional Use Permit as may be necessary to carry out the purpose and provisions of this Section.

515-29-4: Site Plan Drawing Necessary. All applications for a day care facility Conditional Use Permit shall be accompanied by a site plan drawn to scale and dimension, displaying the information required by Section 5 of this Ordinance.

515-29-5: 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.

- A. Lot Requirements and Setbacks. The proposed site for a day care facility must have a minimum lot area as required by the applicable 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 zoning district. The City Council may increase setback requirements if considered necessary to ensure compatibility.

- B. 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.
- C. Screening: A day care facility shall provide screening along shared property boundaries. Such required fencing and screening shall comply with the required fencing and screening provisions of Section 20 of this Ordinance.
- D. Parking: There shall be off-street parking located separately from any outdoor play area and shall be in compliance with Section 22 of this Ordinance. Parking areas shall be screened from view of surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
- E. Loading: Off-street loading spaces in compliance with Section 23 of this Ordinance shall be provided.
- F. Signage: All signing and informational or visual communication devices shall be in compliance with the provisions of Section 37 of this Ordinance.
- G. 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.

515-29-6: 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 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.

515-29-7: Inspection. At any and all reasonable hours, with or without notice, the City hereby reserves the right upon issuing any day care facility 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.

SECTION 30
MINING AND EXTRACTION

Section:

- 515-30-1: Purpose and Intent
- 515-30-2: Administration
- 515-30-3: Information Requirement
- 515-30-4: Performance Standards
- 515-30-5: Land Rehabilitation

515-30-1: 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 6 of this Ordinance.

515-30-2: Administration.

- A. Permit Review. An Interim Use Permit shall be required for all mining and gravel operations pursuant to Section 6 (Administration – Interim Use Permits) of this Ordinance. 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.
- B. The following operations shall be covered by this section.
 - 1. 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.
 - 2. 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.
- C. 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 three hundred fifty (350) feet of the mining operation shall be notified of a proposed mining permit renewal request.

515-30-3: Information Required. 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 5 of this Ordinance:

- A. Name and address of person or agency requesting the mining permit.
- B. The exact legal property description and acreage of area to be mined.
- C. The following surveys of the entire site and including all areas within three hundred fifty (350) feet of the site. All surveys shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below:
 - 1. Survey A - Existing conditions to include:
 - a. Contour map (two (2) foot intervals).
 - b. Existing vegetation.
 - c. Existing drainage and permanent water areas.
 - d. Existing structures and existing wells.
 - 2. Survey B - Proposed operations to include:
 - a. Structures to be erected.
 - b. Location of sites to be mined showing depth of proposed excavation.
 - c. Location of tailings deposits showing maximum height of deposits.
 - d. Location of stationary machinery to be used in the mining operation.
 - e. Location of storage of mined materials, showing maximum height of storage deposits.
 - f. Location of vehicle parking, access roads and local routes to truck routes.
 - g. Location of storage of explosives erosion and sediment control structures.
 - 3. Survey C - End use plan to include:
 - a. Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
 - b. Location and species of vegetation to be replanted reclamation staging plan.
 - c. Demonstration of future street access as provided for by the Comprehensive Plan.
 - d. Demonstration of future utility access and extension locations.
 - e. Description of future land use plan consistent with the Comprehensive Plan and site's ability to accommodate such future uses.
- D. A soil erosion and sediment control plan.
- E. A plan for dust and noise control.

- F. 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.
- G. Any other information requested by the Planning Commission or City Council.

515-30-4: Performance Standards. For such operations approved after the date of adoption of this Ordinance:

- A. **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.
- B. **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.
- C. **Safety Fencing.** Safety fencing may be required around all or portions of the mining operation at the discretion of the City Council.
- D. **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.
- E. **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.
- F. **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 conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.
- G. **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.

- H. 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.
- I. 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.
- J. Lighting. All exterior lighting shall be consistent with the requirements as outlined in Section 18 of this Ordinance.

515-30-5: Land Rehabilitation. All mining sites shall be rehabilitated immediately after mining operations cease. Rehabilitation shall be complete within one (1) year. The following standards shall apply:

- A. 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.
- B. 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.
- C. 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.
- D. 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.

- E. 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.

SECTION 31
BED AND BREAKFASTS

Section:

- 515-31-1: Purpose and Intent
515-31-2: Conditional Use

515-31-1: 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.

515-31-2: Conditional Use. Bed and breakfasts are allowed by a Conditional Use Permit in the R-R, R-E, R-1, R-2 and R-3 zoning districts as regulated in this section, subject to the following conditions:

- A. At least two (2) off-street parking spaces must be provided on site for the owner and one (1) parking space for each room bed and breakfast unit. The parking spaces must be signed and the parking plan approved by City staff.
- B. 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.
- C. Bed and breakfast uses in residential areas must be located at six hundred (600) feet apart (approximately two (2) blocks).
- D. An identification sign not exceeding twelve (12) square feet may be located on the site. The sign must match the architectural features of the structure.
- E. 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:

Maximum Number 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

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 Brainerd 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.

- G. Adequate lighting must be provided between the structure and parking areas for safety contiguous to residential structure. Exterior lighting shall be provided consistent with the requirements of Section 18 of this Ordinance.

SECTION 32
RESERVED

SECTION 33
ADULT ESTABLISHMENTS

Section:

- 515-33-1: Purpose and Intent
- 515-33-2: Provisions
- 515-33-3: Application of this Ordinance
- 515-33-4: Location
- 515-33-5: Hours of Operation
- 515-33-6: Operation
- 515-33-7: Licenses
- 515-33-8: Fees
- 515-33-9: Inspection
- 515-33-10: Expiration and Renewal
- 515-33-11: Suspension
- 515-33-12: Revocation
- 515-33-13: Procedures
- 515-33-14: Transfer of License
- 515-33-15: Severability
- 515-33-16: Effective

515-33-1: Purpose and Intent.

- A. Findings of the City Council: Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; 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:
1. Adult establishments have adverse secondary impacts of the types set forth above.
 2. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
 3. It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the City.

4. Minnesota State Statutes, Section 462.357, allows the City to adopt regulations to promote the public health, safety, morals and general welfare.
 5. The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.
 6. 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.
 7. 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.
 8. Adult establishments can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.
 9. 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.
 10. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.
- B. 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:
1. Prevent additional criminal activity within the City;
 2. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
 3. To locate adult establishments away from residential areas, schools, churches, libraries, parks, and playgrounds;
 4. Prevent concentration of adult establishments within certain areas of the City.

515-33-2: 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 nor 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.

515-33-3: Applications of this Ordinance.

A. In General.

1. 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.
2. 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.

B. 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 4.

515-33-4: Location. Adult establishments are permitted uses in the B-4 General Business District and I-2 Industrial 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.

515-33-5: 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.

515-33-6: Operation.

- 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.
- C. 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.
- D. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
- E. Signs. Signs for adult establishments shall comply with the City's Ordinance for signs addressed in the Zoning Ordinance Section 515.47. Signs for adult establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
- F. 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.
- G. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
 - 1. No dancer, live entertainer or performer shall be under eighteen (18) years old.

2. 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.
3. No dancer or performer shall perform any dance or live entertainment closer than ten (10) feet to any patron.
4. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
5. No patron shall pay or give any gratuity to any dancer or performer.
6. No dancer or performer shall solicit or receive any pay or gratuity from any patron.

515-33-7: Licenses.

- A. 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.
- B. Applications. An application for a license must be made on a form provided by the City and must include:
 1. 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;
 2. The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's;
 3. The address and legal description of the premises where the adult establishment is to be located;
 4. 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 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;

5. The activities and types of business to be conducted;
6. The hours of operation;
7. The provisions made to restrict access by minors;
8. A building plan of the premises detailing all internal operations and activities;
9. 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 inches;
10. 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;
11. 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 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 and 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;
12. 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; and

13. 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.
- C. 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:
1. The applicant is under 21;
 2. The applicant failed to supply all of the information requested on the license application;
 3. The applicant gives false, fraudulent, or untruthful information on the license application;
 4. 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;
 5. The adult establishment is not in full compliance with this Code and all provisions of state and federal law;
 6. The applicant has not paid the required license and investigation fees;
 7. 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;
 8. The applicant is not the proprietor of the establishment for which the license is issued; or
 9. The adult establishment premises holds an intoxicating liquor, beer or wine license.
- D. Re-qualification. An applicant may qualify for an adult establishment license:
1. After one (1) year has elapsed in the case of a previous license revocation;
 2. 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;

3. 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; or
 4. 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 or more misdemeanor offenses of combination of misdemeanor offense occurring within any twenty-four (24) month period.
- E. 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.

515-33-8: Fees.

- A. The license fee for adult establishments are as follow:
1. The initial license fee shall be established by amendment to Section 1010 of the Brainerd City Code.
 2. 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.
 3. Licenses will expire on December 31 in each year. Each license will be issued for a period of one 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.
 4. 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 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; or

- d. A change in the legal status making it unlawful for the licensed business to continue.
 5. 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.
- B. 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.
- C. The procedures for granting an adult establishment license 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.

515-33-9: Inspection.

- A. 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.
- B. 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 Section 9 and Section 10.
- C. 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.
- D. 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 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.

515-33-10: Expiration and Renewal.

- A. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 7. 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.
- B. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one 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.

515-33-11: Suspension.

- A. 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:

1. Violated or is not in compliance with any provision of this Ordinance.
 2. Engaged in the sale or use of alcoholic beverages while on the adult establishment premises other than at an adult hotel or motel.
 3. Refused to allow an inspection of the adult establishment as authorized by this Ordinance.
 4. Knowingly permitted gambling by any person on the adult establishment premises.
 5. Demonstrated inability to operate or manage an adult establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- B. 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.

515-33-12: Revocation.

- A. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 11 occurs and the license has been suspended at least once before within the preceding twelve (12) months.
- B. Causes of Revocation. The City may revoke a license if it determines that:
1. A licensee gave false or misleading information in the material submitted to the City during the application process;
 2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 3. A licensee or an employee has knowingly allowed prostitution on the premises;
 4. A licensee or an employee knowingly operated the adult establishment during a period of time when the licensee's license was suspended;
 5. A licensee has been convicted of an offense listed in Section 515-33-7.C, for which the time period required in Section 515-33-7.D, has not elapsed;

6. 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 515-33-7.C.4 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.
 7. 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.
- C. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- D. Exceptions. Section 515-33-12.B.7, 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.
- E. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult establishment license for one 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 515-33-12-B.5, an applicant may not be granted another license until the appropriate number of years required under Section 515-33-7.D have elapsed.
- F. 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.

515-33-13: Procedures. Issuances, suspensions, revocations and non-renewals of adult establishment licenses are governed by the following provisions:

- A. 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.

- B. 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.
- C. 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 that 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.
- D. 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.

515-33-14: Transfer of 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.

515-33-15: 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.

515-33-16: Effective. This Ordinance shall be effective one (1) week from and after its publication.

SECTION 34
WIND ENERGY CONVERSION SYSTEMS (WECS)

Section:

- 515-34-1: Purpose and Intent
- 515-34-2: Application
- 515-34-3: Declaration of Conditions
- 515-34-4: Site Plan Drawing
- 515-34-5: Compliance with State Building Code
- 515-34-6: Compliance with National Electrical Code
- 515-34-7: Manufacturer Warranty
- 515-34-8: Design Standards
- 515-34-9: Ornamental Wind Devices
- 515-34-10: Building Permit Required
- 515-34-11: Inspection
- 515-34-12: Abandonment

515-34-1: Purpose and Intent. The purpose of this Section is to establish standards and procedures by which the installation and operation of wind energy conversion systems and small wind energy conversion systems shall be governed within the City.

515-34-2: Application.

- A. Wind energy conversion systems (WECS) may be allowed as an accessory, conditional use subject to the regulations and requirements of this Section, provided the property upon which the system is to be located is zoned R-A, B-1, B-2, B-3, B-4, B-5, I-1 or I-2 and is located on a parcel of land of at least five (5) acres in size.
- B. Small wind conversion systems as defined by Section 2 of this Ordinance may be allowed as an accessory use in residential districts, provided the following conditions are met:
 - 1. The small wind conversion system meets the required principal building setbacks.
 - 2. The small wind conversion system extends no more than five (5) feet above the height of the principal building.
 - 3. The proposed small wind conversion system will not block, interfere or otherwise impair a scenic vista or corridor or the view of an adjoining residential building.
 - 4. The small wind conversion system meets all MPCA standards for noise emissions.

5. The primary purpose of the small wind conversion system will be to provide power for the principal use of the property and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from the system back to the public utility.
6. Approval of an administrative permit in accordance with Section 9 of this Ordinance shall be required for installation of a small wind energy conversion system. Such application shall be accompanied by a site plan drawn in sufficient detail to clearly describe the following:
 - a. Property lines and physical dimensions of the site.
 - b. Location, approximate dimensions and types of existing buildings and structures on site.
 - c. Proposed location and elevation of the proposed system.
 - d. Location of all aboveground utility lines on site or within one radius of the total height of the system.
 - e. Include make, model, picture and manufacturer's specifications, including noise decibels.

515-34-3: Declaration of Conditions. The City Council may impose such conditions on the granting of WECS conditional use permit as may be necessary to carry out the purpose and provisions of this Section and to maintain compatibility.

515-34-4: Site Plan Drawing. All applications for a WECS conditional use permit shall be accompanied by a detailed site plan drawn to scale and dimensioned, displaying the following information:

- A. Lot lines and dimensions.
- B. Location and height of all buildings, structures, above ground utilities, and trees on the lot, including both existing and proposed structures and guy wires anchors.
- C. Locations and height of all adjacent buildings, structures, above ground utilities and trees located within three hundred fifty (350) feet of the exterior boundaries of the property in question.
- D. Existing and proposed setbacks of all structures located on the property in question.
- E. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to structures on adjacent lots.

515-34-5: Compliance with State Building Code. Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with the engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code especially with regards to wind and icing loads. Drawings and engineering calculations shall be certified by a registered engineer.

515-34-6: Compliance with National Electrical Code. WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.

515-34-7: Manufacturer Warranty. The applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within the City. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.

515-34-8: Design Standards.

- A. Height: The permitted maximum height of a WECS shall be determined in one of two ways. In determining the height of the WECS, the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.
1. A ratio of one (1) foot to one (1) foot between the distance of the closest property line to the base of WECS to the height of the system.
 2. A maximum system height of one hundred fifty (150) feet.

The shortest height of the two above mentioned methods shall be used in determining the maximum allowable height of a WECS system. The height of a WECS must also comply with FAA Regulation Part 77 “Objects Affecting Navigable Air Space” and/or MnDOT Rule 14, MCAR 1.3015 “Criteria for Determining Obstruction to Air Navigation.”

- B. Setbacks: No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback and no part of the system shall be within ten (10) feet of any property line, whichever is greater. WECS towers shall be setback from the closest property line one (1) foot for every one (1) foot of system height. WECS shall not be located within fifty (50) feet of an above ground utility line.
- C. Rotor Size: All WECS rotors shall not have rotor dimensions greater than twenty-six (26) feet.

- D. Rotor Clearance: Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree within a two hundred (200) foot radius.
- E. Rotor Design: The blade design and materials are to be designed and constructed to ensure safe operation in an urban/rural area.
- F. Rotor Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping WECS operation in high wind (forty (40) MPH or greater) or in conditions of imbalance.
- G. Lightning Protection: Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.
- H. Component Compatibility: The Wind turbine and wind turbine tower are to be designed and constructed to be compatible.
- I. Tower Access: To prevent unauthorized climbing, WECS towers must comply with one of the following provision:
 - 1. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 - 2. A locked anti-climb device shall be installed on the tower.
 - 3. Tower capable of being climbed shall be enclosed by a locked, protective fence at least eight (8) feet high.
- J. Signs: WECS shall have one sign, not to exceed two (2) square feet at the base of the tower and said sign shall contain the following information:
 - 1. Warning high voltage.
 - 2. Manufacturer's name.
 - 3. Emergency phone number.
 - 4. Emergency shutdown procedures.
- K. Lightning: WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by FAA Regulations Part 77 "Objectives Affecting Navigable Air Space" and Lighting."
- L. Electromagnetic Interference: WECS shall be designed and constructed so as not to cause radio and television interference.
- M. Noise Emissions: Noises emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 1 and 2, as amended.

N. Utility Company Interconnection: No WECS shall be interconnected with the local electrical utility company until the utility company and the City Engineer have commented upon such proposal. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the City.

515-34-9: Ornamental Wind Devices. Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section and shall conform to other applicable provisions of this Chapter and the City Code.

515-34-10: Building Permit Required. A building permit shall be required for the installation of a WECS in the City.

515-34-11: Inspection. The City hereby reserves the right upon issuing any WECS conditional use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall upon written notice from the City, take expeditious action to correct the situation.

515-34-12: Abandonment. Any WECS or tower which is not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

SECTION 35
ANTENNAS AND TOWERS

Section:

515-35-1	Purpose and Intent
515-35-2	General Standards
515-35-3	Certification, Inspection and Maintenance
515-35-4	Tower Design
515-35-5	Co-Location Requirement
515-35-6	Accessory Antennas
515-35-7	Personal Wireless Service Antennas
515-35-8	Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas

515-35-1: 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.

515-35-2: 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.

- A. 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 City staff. 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.
- B. 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.
- C. 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.
- D. When applicable, written authorization for antenna and/or tower erection shall be provided by the property owner.

- E. No message shall be affixed to the antenna and/or tower structure.
- F. 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.
- G. If a new tower of seventy-five (75) feet or greater in height is to be constructed, it shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and antennas for at least one (1) additional use, including but not limited to other personal wireless service communication companies, local police, fire and ambulance companies. Towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- H. 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.
- I. 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.
- J. Towers shall comply with all applicable Federal Aviation Administration (FAA) regulations.
- K. 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.
- L. Except as may be applicable in 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: Section 515-35-2.H, Section 515-35-4 and Section 515-35-5.

515-35-3: Certification, Inspection and Maintenance.

- A. 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.
- B. 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.
- C. 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.

515-35-4: Tower Design. Where allowed, wireless communication towers shall be of a monopole design unless the City Council determines that an alternative design requested by the applicant would better blend into the surrounding environment.

515-35-5: Co-Location Requirement. An application for a new tower shall not be approved unless the applicant demonstrates that the antennas cannot be accompanied on an existing or approved tower, building, or structure within a two (2) mile search radius of the proposed tower due to one or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved tower, building, or structure as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- B. 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.
- C. Other unforeseen reasons that make it unfeasible to locate the antennas upon an existing or approved tower or structure.
- D. 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 to the users.
- E. The applicant shall demonstrate that Section 515-35-5.A through 515-35-5.D of this Ordinance were attempted, but an agreement could not be reached.

515-35-6: Accessory Antennas. The following standards shall apply to all accessory antennas including radio and television receiving antennas, satellite dishes, TVROs 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.

- A. 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.

- B. 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.
- C. Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen (15) feet above the normal height restriction for the affected 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.

515-35-7: Personal Wireless Service Antennas.

A. Residential and Commercial District Standards.

- 1. Antennas Located Upon an Existing Tower or Structure. Personal wireless service antennas as a permitted secondary use may be located upon existing towers or structures shall require the processing of an administrative permit and shall comply with the following standards:
 - a. 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 accessory building setback requirements, and shall be screened from view by landscaping where appropriate.
 - b. An administrative permit is issued by City staff, subject to the following conditions:
 - 1) 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.
 - 2) Wall or facade mounted antennas may not extend more than five (5) feet above the cornice line and shall be constructed of a material or color which matches the exterior of the building.
 - c. In no case shall a personal wireless service antenna be located upon or affixed to a detached single family residential dwelling.
- 2. New Towers. The erection of new personal wireless service antenna towers within Residential and Commercial Zoning Districts of the City is prohibited.

B. Industrial District Standards.

1. Antennas Located Upon an Existing Structure or Existing Tower. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower shall require the processing of an administrative permit and shall comply with the following standards:
 - a. An administrative permit is issued by City staff.
 - b. 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.
 - c. Wall or facade 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.
2. New Towers. New towers as a permitted secondary use shall require approval of 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:
 - 1) Towers with a maximum capacity to support two (2) antennas shall not exceed one hundred forty (140) feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed one hundred sixty (160) feet in height.
 - 2) 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.

- 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 fifty (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.
3. Temporary Mobile Towers. 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 the approval of an administrative permit and shall comply with the following standards:
- a. Temporary mobile towers are exempt from co-location and permanent tower structure design standards provided for in the following sections: Section 515-35-2.h; Section 515-35-2.i; Section 515-35-4 and Section 515-35-5.
 - b. The termination date of the permit shall not exceed one hundred twenty (120) days. Temporary mobile towers located on a site longer than one hundred twenty (120) days shall require the processing of an interim use permit subject to the standards contained in Section 6.
 - c. Guyed towers are prohibited.
 - d. Mobile units shall have a minimum tower design wind load of eighty (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 one hundred (100) feet.

515-35-8: Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas. 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 all industrial districts of the City and shall be subject to the regulations and requirements of Section 5 of this Ordinance.

- 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 fifty (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.

SECTION 36
ESSENTIAL SERVICES

Section:

- 515-36-1: Purpose and Intent
- 515-36-2: Procedural Requirements
- 515-36-3: Installation Requirements
- 515-36-4: Conditional Use Permit Required

515-36-1: 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 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.

515-36-2: Procedural Requirements. 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, shall require an Administrative Permit issued by City staff in accordance with Section 9 of this Ordinance. Approval by the City shall be based upon the information furnished in the procedural requirements as outlined in the following section.

515-36-3: Installation Requirements.

- A. 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.
- B. City staff shall review and provide recommendations regarding the project's relationship to the Comprehensive Plan and/or Ordinances and parts thereof.
- C. In considering applications for the placement of essential services, as regulated in this Section, City staff 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:
 - 1. Setbacks. The proposed essential service shall meet required accessory setbacks for the respective zoning district.
 - 2. Parking. If deemed necessary by City staff, the site must provide for required off-street parking in conformance with Section 23 of this Ordinance.

3. **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.
 4. **Screening and Landscaping.** Screening and landscaping from neighboring property shall be provided in accordance with Section 20 of this Ordinance.
 5. **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 20 of this Ordinance.
 6. Unless otherwise approved by City staff, all equipment shall be completely enclosed in a permanent building with no outside storage.
- E. If the City staff 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 515-3-4 of this Ordinance.

515-36-4: Conditional Use Permit Required.

- A. 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 shall be a conditional use in all districts subject to the following requirements:
1. Adherence to all applicable Federal Aviation Administration (FAA) and State performance standards.
 2. The performance standards as specified in this Section are adhered to.
 3. The procedural and review standards for Conditional Use Permits are followed as specified in Section 5 of this Chapter.
 4. 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 a Conditional Use Permit amendment.
- B. Lots reserved specifically for essential services, whether of record, or newly subdivided, may be less than the specified dimensions of the applicable zoning district, both in area and width as a conditional use, under the following stipulations:

1. 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.
2. Applications for subdivision of new lots under this provision are accompanied by the appropriate Conditional Use Permit applications.
3. 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.
4. 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.
5. The procedural and review standards for Conditional Use Permits are followed as specified in Section 5 of this Ordinance.
6. 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 Conditional Use Permit amendment.

SECTION 37
SIGNS

Section:

- 515-37-1: Purpose and Intent
- 515-37-2: Effect
- 515-37-3: Severability
- 515-37-4: Permit Required
- 515-37-5: Permit Not Required
- 515-37-6: Prohibited Signs
- 515-37-7: Violations
- 515-37-8: Substitution
- 515-37-9: General Regulations
- 515-37-10: District Regulations
- 515-37-11: Non-Conforming Signs

515-37-1: 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:

- 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.

515-37-2: 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:

- A. 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.
- B. 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.

- C. 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.
- D. Provide for the enforcement of the provisions of this sign Ordinance.

515-37-3: 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.

515-37-4: Permit Required. No sign shall be erected, altered, improved, reconstructed, maintained or moved in the City without first securing a permit from the City:

- A. 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.
- B. 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.
- C. Application for a permit shall contain the following information unless waived by the City:
 - 1. Names and addresses of the applicant owners of the sign and lot.
 - 2. Address at which any signs are to be erected.
 - 3. Lot, block and addition at which the signs are to be erected and the street on which they are to front.
 - 4. Type and size of sign (e.g., wall sign, pylon sign, monument sign).
 - 5. A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.
 - 6. Inventory of existing on-site signage (size, height, location).
 - 7. Plans, location and specifications and method of construction and attachment to the buildings or placement method of the ground.

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

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

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

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

4. DIRECTIONAL AND INFORMATION SIGNS FOR PARKING AREAS, LOADING AREAS, AND FOR BUILDINGS OR LOCATIONS ON A SITE SUBJECT TO THE FOLLOWING CONDITIONS:
 - A. INDIVIDUAL SIGNS SHALL NOT EXCEED SIX (6) SQUARE FEET IN AREA.
 - B. SIGNS MAY NOT BE LOCATED IN A PUBLIC RIGHT OF WAY.
5. BANNERS, PENNANTS, INFLATABLE SIGNS, SANDWICH BOARDS, "A"FRAME SIGNS AND THE LIKE.

515-37-6: Prohibited Signs. The following signs are prohibited:

- A. 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.
- B. All signs over three hundred (300) square feet in area.
- C. All off-premises signs greater than six (6) square feet in area.
- D. Changeable copy signs, except as specifically allowed by Section 515-37-10.
- E. Content classified as "obscene" as defined by Minnesota Statutes Section 617.241.
- F. Flashing or rotating signs.
- G. ~~Portable signs, banners, pennants, ribbons, streamers, strings of light bulbs, spinners or similar devices except as allowed by Sections 515-37-9.G and 515-37-10 of this Ordinance.~~
- H. 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.

515-37-7: 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.

- A. This Ordinance shall be administered and enforced by City staff. Any City staff person may institute in the name of the City appropriate actions or proceedings against a violator.
- B. Inspection. All signs for which a permit is required shall be subject to inspection by City staff.
- C. 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.

515-37-8: 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.

515-37-9: General Regulations.

- A. 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.
- B. Wall signs may extend no more than twenty-four (24) inches from the building façade and may encroach into the public right-of-way where there is a zero building setback.
- C. The installation of electrical signs shall be subject to the State Electrical Code. Electrical service to a freestanding sign shall be underground.
- D. 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.
- E. 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.
- F. 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.

- G. Temporary 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 B-4, B-5 B-6 AND INDUSTRIAL ZONES subject to the following:
1. A Sign Permit ~~and a permit sticker is attached to a sign during the period of display.~~ that shall require a non-refundable fee as set by Ordinance, together with a ~~fee,~~ bond or cash deposit is issued for the sign.
 2. 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.
 3. Permits shall be for periods not to exceed sixty (60) consecutive days of each ninety (90) calendar day period for one premises, or a total of one hundred twenty (120) days in a calendar year.
 4. One temporary sign is allowed on the premises at one time.
 6. ~~Signs shall be set back fifteen (15) feet from any property line.~~
 5. Temporary signs permitted by subsection 515-37-5 of this Ordinance shall be exempt from the requirements of this section.
- H. 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.
- I. 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.
- J. 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 inches (6") 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.
- K. 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.

1. There is a minimum of eight (8) feet of clearance under the base of the sign to the ground below.
2. 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 B-3 District.
3. 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 Sections 515-37-10.B and 515-37-10.C of this Ordinance.

M. Roof signs shall be allowed in commercial and industrial districts provided that:

1. The height of the sign shall not exceed the height of the roof.
2. The sign design shall be consistent with the building character and integrated into the building architecture.

N. SIGNS ARE NOT ALLOWED TO ENCROACH INTO OR OVER MNDOT RIGHT OF WAY.

515-37-10: District Regulations. In addition to the signs allowed by Section 515-37-5 of this Ordinance, the following signs shall be allowed within the specific Zoning Districts:

A. Within the R-A, R-R, R-1, R-2, R-3, R-4 and R-5 Districts, the following additional regulations apply:

1. Except for the uses specified in Section 515-37-5 of this Ordinance, one (1) sign shall be allowed provided that:
 - a. The total area of the sign shall not exceed eight (8) square feet.
 - b. One (1) freestanding sign shall be limited to a maximum height of six (6) feet.
2. In addition to the sign allowed by Section 515-37-10.A.1 of this Ordinance, signs shall be allowed for a subdivision or multiple family site having not less than five (5) lots or dwelling units at its entrance provided that:
 - a. Not more than one (1) sign shall be allowed at each entrance from a street.
 - 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 Section 515-37-9.F of this Ordinance.
 - 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. 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 City staff.
 - g. 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 City staff.
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.
 - 1) 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.
 - 2) No more than one (1) changeable copy sign per parcel.
 - 3) A dimmer switch shall be installed which limits illumination brilliance of the sign during night time hours to no more than 500 lumens. Night time hours shall be considered to be from dusk to dawn.
 - 4) Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
- c. Temporary signage is subject to the provisions of Sections 515-37-5 and 515-37-9 of this Ordinance.

B. Within the B-1 District the following additional regulations shall apply:

- 1. All residential use regulations in accordance with Section 515-37-10.A.
- 2. Each parcel shall be allowed one wall sign up to two (2) square feet in area and one freestanding sign up to twelve (12) square feet in area.
- 3. The height of a freestanding sign shall not exceed six (6) feet.

C. Within the B-2, B-3, B-4, B-5, B-6, I-1 and I-2 Districts the following additional regulations shall apply:

- 1. The total area of all signs displayed on a parcel shall not exceed fifteen (15) percent of the building façade fronting not more than two (2) public streets.

2. A one hundred (100) square foot SIGN UP TO twenty-five (25) FEET TALL is PERMITTED ~~allowed~~ FOR A ~~per~~ parcel WITH STREET FRONTAGE OF ONE HUNDRED (100) FEET OR LESS.

IN B-4, B-5 AND B-6 ZONING DISTRICTS, ONE (1) SQUARE FOOT OF SIGN AREA MAY BE ADDED TO THE PERMITTED ONE HUNDRED(100) SQUARE FOOT SIGN AREA FOR EACH ONE (1) FOOT OF STREET FRONTAGE OVER ONE HUNDRED (100) FEET. A SIGN UP TO THREE HUNDRED (300) SQUARE FEET IS PERMITTED.

PARCELS IN B-4, B-5 AND B-6 ZONING DISTRICTS WITH MORE THAN THREE HUNDRED (300) FEET OF STREET FRONTAGE MAY HAVE ONE (1) ADDITIONAL SIGN FOR EACH ADDITIONAL THREE HUNDRED (300) FEET OF STREET FRONTAGE. SIGNS SHALL BE LOCATED AT LEAST THREE HUNDRED (300) FEET APART.

SIGN AREA FOR PARCELS PERMITTED MORE THAN ONE (1) SIGN IS EQUAL TO THE TOTAL FEET OF STREET FRONTAGE. IF MORE THAN ONE SIGN IS USED, THE TOTAL SIGN AREA ALLOWED SHALL BE DISTRIBUTED BETWEEN PERMITTED SIGNS.

EACH SIGN SHALL BE THREE HUNDRED (300) FEET APART AND EACH SIGN MAY NOT EXCEED THREE HUNDRED (300) SQUARE FEET IN AREA.

SIGNS SHALL BE LOCATED ON THE STREET FRONTAGE FOR WHICH ITS SIGN AREA WAS DETERMINED.

3. 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 sixteen (16) square feet may be used for awning signs.
4. 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.
5. 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 sixteen (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.
6. Changeable copy signage.
- a. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall counted as part of the total sign area allowed within a respective Zoning District.
 - 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 night time hours to no more than 500 lumens. Night time 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.
7. In addition to the freestanding sign allowed by this Section 515-37-10.C.2, 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.
- D. Multiple Occupancy Commercial and Industrial Buildings including Business/Commercial Centers:
- 1. 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:

- a. 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 exterior walls facing a public right of way.
 - b. The total area of all wall signs shall not exceed fifteen (15) percent of the tenant bay.
 - c. 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.
2. In addition to wall and free standing signs, canopy and marquee signs are allowed provided that:
 - a. Occupy up to an additional sixteen (16) square feet on a building façade fronting a public street or alley.
 - b. Letters are painted or otherwise affixed to any permissible awning or canopy as follows:
 - 1) One (1) sign per canopy fascia fronting onto a street.
 - 2) Be within the physical dimensions of the awnings or canopy fascia.
3. 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).
 4. Changeable copy signs are allowed in accordance with Section 515-38-10.C.6 of this Ordinance.

515-37-11: Non-Conforming Signs. A nonconforming sign lawfully existing upon the effective date of this chapter shall be regulated in accordance with Section 15 of this Ordinance.

SECTIONS 38-49
RESERVED

SECTION 50
ZONING DISTRICTS AND DISTRICT PROVISIONS

Section:

- 515-50-1: Establishment of Zoning Districts
- 515-50-2: Zoning District Boundaries
- 515-50-3: Zoning Map
- 515-50-4: Annexations

515-50-1: Establishment of Zoning Districts. The zoning districts are designed to assist in carrying out the intents and purposes of the Brainerd Comprehensive Plan, and are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare. In order to classify, regulate and restrict the location of trade and industry and the location of buildings designed for specific, uses to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected and altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards, recreation and open space, the City of Brainerd is hereby divided into zoning districts. For the purposes of this Ordinance, the City of Brainerd is hereby divided into the following Zoning Districts:

A. Agricultural Districts:

- 1. R-A, Rural Agricultural District

B. Residential Districts:

- 1. R-R, Rural Residential District
- 2. R-E, Single Family Estate Residential District
- 3. R-1A, Single Family Residential
- 4. R-1, Traditional Single Family Residential
- 5. R-2, Medium Density Residential
- 6. R-3, High Density Residential
- 7. R-MH, Manufactured Housing District

C. Business Districts:

- 1. B-1, Residential-Office District
- 2. B-2, Neighborhood Business District
- 3. B-3, Central Business District
- 4. B-4, General Business District
- 5. B-5, Commercial Amusement District
- 6. B-6, Washington Street Commercial District

- D. Industrial Districts:
 - 1. I-1, Light Industry District
 - 2. I-2, General Industry District

- E. Special Districts:
 - 1. PUD, Planned Unit Development District
 - 2. Floodplain District
 - 3. FW, Floodway District
 - 4. FF, Flood Fringe District

515-50-2: Zoning District Boundaries. Zoning district boundary lines established by this Ordinance generally follow lot lines, the centerlines of railroad right-of-way lines, street rights-of-way, water courses or the corporate limit lines, all as they exist upon the effective date of this Ordinance.

- A. Appeals concerning the exact location of a zoning district boundary line shall be heard by the Board of Zoning Appeals pursuant to Section 515-3-4 of this Ordinance.
- B. Whenever any street, alley or other public way is vacated by official action of the City, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.
- C. All streets, alleys, public ways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property in the most restrictive classification immediately abutting upon such alleys, streets, public ways or railroad rights-of-way. Where the center line of a street, alley, public way or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.
- D. All areas within the corporate limits of the City which are under water and which are not shown as included within any zone shall be subject to all regulations of the zone which immediately adjoins such water area. If such water area adjoins two (2) or more zones, the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the half-way point and/or to the corporation limits.

515-50-3: Zoning Map. The location and boundaries of the districts established by this Ordinance are set forth on the Official Zoning Map which is hereby incorporated as part of this Ordinance and which is on file with the City. Said map and all the notations, references and

other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Chapter by reference.

515-50-4: Annexations. Any land, which may be annexed to the City in the future shall be placed in the Rural Residential District (R-R) until such a time that the City Council amends the zoning district and shall be subject to all regulations, notations, references and conditions as are applicable to said district until such time that a determination may be made as to the proper district classification for such territory and an amendment can be made to that effect.

SECTION 51
R-A, RURAL AGRICULTURAL DISTRICT

Section:

- 515-51-1: Purpose and Intent
- 515-51-2: Permitted Uses
- 515-51-3: Accessory Uses
- 515-51-4: Interim Uses
- 515-51-5: Conditional Uses
- 515-51-6: Uses by Administrative Permit
- 515-51-7: Lot Area and Setback Requirements
- 515-51-8: Building Height
- 515-51-9: Lot Coverage

515-51-1: Purpose and Intent. This District is intended for areas where urban public utilities are not presently available. A density of not more than one (1) lot per twenty (20) acres will retain these lands in their natural state and in agricultural uses pending the proper timing for the economical provision of utilities, streets, parks, storm drainage and other public facilities and services so that orderly development will occur.

515-51-2: Permitted Uses.

- A. Agricultural uses.
- B. Barns, stables, silos, other agricultural buildings.
- C. Nurseries, greenhouses for growing only (no retail sales).
- D. Single family dwellings.
- E. Forest and Game management areas.
- F. Public Recreation areas and related accessory buildings and structures.
- G. Residential facilities serving six (6) or fewer persons in a single family detached dwelling.
- H. Essential services as regulated by Section 36 of this Ordinance.

515-51-3: Accessory Uses.

- A. Garages for private use as regulated by Section 515-17-7 of this Ordinance.

- B. Fences as regulated by Section 19 of this Ordinance.
- C. Recreation facilities and equipment for private use subject to the provisions of Section 17 of this Ordinance.
- D. Solar Energy Systems and Solar Structures.
- E. Home businesses as regulated by Section 26 of this Ordinance.
- F. Buildings for the storage of domestic tools, supplies and equipment subject to the provisions of Section 17 of this Ordinance.
- G. Storage of recreational vehicles and equipment as regulated by Section 24 of this Ordinance.
- H. Boarding or renting of rooms to not more than two (2) individuals per dwelling.
- I. In home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- J. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only), 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 as regulated by Section 35 of this Ordinance.
- K. Temporary roadside sales of agricultural products produced on site.

515-51-4: Interim Uses.

- A. Home extended businesses as regulated by Section 26 of this Ordinance.
- B. Mining or land reclamation as regulated by Section 30 of this Ordinance.
- C. WECS (Wind Energy Conversion Systems) as regulated by Section 34 of this Ordinance.
- D. Commercial animal kennels.

515-51-5: Conditional Uses.

- A. Places of worship related buildings provided that:
 - 1. Side yards shall be thirty (30) feet.

2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
- B. Cemeteries, subject to the following provisions:
1. The site accesses a major collector.
 2. The site is landscaped in accordance with Section 20 of this Ordinance.
- C. Commercial riding stables provided that:
1. Minimum lot size shall be twenty (20) acres.
 2. Any building in which animals are kept, whether roofed shelter or enclosed structure, shall be located a distance of three hundred (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 one hundred (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.
- D. Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that when abutting a residential use in a residential use district, the property is screened and landscaped in accordance with Section 36 of this Ordinance.

515-51-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-51-7: Minimum Lot Area and Setback Requirements.

A. Lot Area Requirements:

1. Lot size: Twenty (20) acres.
2. Lot Width: Five hundred (500) feet.
3. Lot Depth: Lot depth shall not exceed three times the width for the buildable area of the lot.

B. Principal Building Setbacks (Agricultural):

1. Front Yard: Fifty (50) feet.
2. Side Yard: Two hundred (200) feet.
3. Rear Yard: Two hundred (200) feet.

C. Principal Building Setbacks (Non-Agricultural):

1. Front Yard: Fifty (50) feet.
2. Side Yard: Fifteen (15) feet.
3. Side Yard (corner): Thirty (30) feet.

D. Accessory Building and Structure Setbacks (Agricultural):

1. Front Yard: Fifty (50) feet.
2. Side Yard: One hundred (100) feet.
3. Rear Yard: One hundred (100) feet.

E. Accessory Building and Structure Setbacks (Non-Agricultural):

1. Front Yard: Fifty (50) feet.
2. Side Yard: Fifteen (15) feet.
3. Rear Yard: Fifteen (15) feet.

515-51-8: Building Height.

A. ~~Thirty five (35) feet, except agricultural buildings such as silos, etc.~~ *DWELLINGS SHALL NOT Buildings exceeding thirty (30) feet in height. PERMITTED NON-RESIDENTIAL USES AND CONDITIONAL USES TALLER THAN THIRTY (30) FEET shall require approval of a conditional use permit.*

B. Accessory building and structure height shall be governed by Section 17 of this Ordinance.

515-52-9: Building Performance Standards.

- A. Minimum floor area per dwelling unit: Nine hundred sixty (960) feet.
- B. Minimum width/length of dwelling unit: Twenty-two (22) feet.
- C. Each dwelling unit shall be located on a permanent perimeter foundation in accordance with the Brainerd and Minnesota Building Code.

515-51-10: Lot Coverage.

- A. Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area.
- B. Non-residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

SECTION 52
R-R, RURAL RESIDENTIAL DISTRICT

Section:

- 515-52-1: Purpose and Intent
- 515-52-2: Permitted Uses
- 515-52-3: Accessory Uses
- 515-52-4: Interim Uses
- 515-52-5: Conditional Uses
- 515-52-6: Uses by Administrative Permit
- 515-52-7: Lot Area and Setback Requirements
- 515-52-8: Building Height
- 515-52-9: Building Performance Standards
- 515-52-10: Lot Coverage

515-52-1: Purpose and Intent. The purpose of this district is provide for large lot single family residential uses and open space areas in environmentally sensitive and high natural amenity areas. Developments in the R-R District are required to connect to City water and sewer service. Developments to which municipal utilities cannot be extended are prohibited.

515-52-2: Permitted Uses.

- A. Agricultural uses.
- B. Barns, stables, silos, and other agricultural buildings.
- C. Single family dwellings.
- D. Forest and game management areas.
- E. Public recreation areas and related accessory buildings and structures.
- F. Residential facilities serving six (6) or fewer persons in a single family detached dwelling.
- G. Essential services as regulated by Section 36 of this Ordinance.

515-52-3: Accessory Uses.

- A. Open off-street parking space and private garages as regulated by Section 17 of this Ordinance.
- B. Fences as regulated by Section 19 of this Ordinance.

- C. Recreation equipment and facilities for private use subject to the provisions of Section 17 of this Ordinance.
- D. Solar Energy Systems and Solar Structures.
- E. Home businesses as regulated by Section 26 of this Ordinance.
- F. Tool houses and sheds and other such buildings for the storage of domestic tools, supplies and equipment subject to the provisions of Section 17 of this Ordinance.
- G. Storage of recreational vehicles and equipment as regulated by Section 24 of this Ordinance.
- H. Boarding or renting of rooms to not more than two (2) individuals per dwelling.
- I. In home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- J. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only) 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 as regulated by Section 35 of this Ordinance.
- K. Temporary roadside stands for the sale of agricultural products produced on site.

515-52-4: Interim Uses.

- A. Home extended businesses as regulated by Section 26 of this Ordinance.

515-52-5: Conditional Uses.

- A. Public and private schools provided that:
 - 1. The site accesses a major collector.
 - 2. The site is landscaped in accordance with Section 20 of this Ordinance.
 - 3. Off-street parking is provided in accordance with Section 22 of this Ordinance.
 - 4. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.
 - 5. Emergency vehicle access is provided to and within the site.

- B. Places of worship and related buildings provided that:
 - 1. Side yards shall be thirty (30) feet.
 - 2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 - 3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
- C. Planned Unit Developments as regulated by Section 11 of this Ordinance.
- D. Bed and breakfast subject to provisions of Section 31 of this Ordinance.
- E. Cemeteries, subject to the following provisions:
 - 1. The site accesses a major collector.
 - 2. The site is landscaped in accordance with Section 20 of this Ordinance.
- F. Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that when abutting a residential use in a residential use district, the property is screened and landscaped in accordance with Section 35 of this Ordinance.
- G. Personal wireless service towers and antennas as regulated by Section 35 of this Ordinance.

515-52-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-52-7: Minimum Lot Area and Setback Requirements.

- A. Lot Area Requirements:
 - 1. Minimum Lot size: Twenty thousand (20,000) square feet.
 - 2. Maximum Lot Size: One (1) Acre.
 - 3. Lot Width: One hundred (100) feet.

4. Lot Depth: Lot depth shall not exceed three times the width for the buildable area of the lot.
- B. Principal Building Setbacks (Agricultural):
1. Front Yard: Thirty-five (35) feet.
 2. Side Yard: One hundred (100) feet.
 3. Rear Yard: One hundred (100) feet.
- C. Principal Building Setbacks (Non-Agricultural):
1. Front Yard: Thirty-five (35) feet.
 2. Side Yard: Twenty (20) feet.
 3. Side Yard (corner): Thirty (30) feet.
- D. Accessory Building and Structure Setbacks (Agricultural):
1. Front Yard: Fifty (35) feet.
 2. Side Yard: Fifty (50) feet.
 3. Rear Yard: Fifty (50) feet.
- E. Accessory Building and Structure Setback (Non-Agricultural):
1. Front Yard: Thirty-five (35) feet.
 2. Side Yard: Eight (8) feet.
 3. Rear Yard: Eight (8) feet.

515-52-8: Building Height.

- A. ~~Thirty-five (35) feet, except agricultural buildings such as silos, etc.~~ *DWELLINGS SHALL NOT Buildings exceeding thirty (30) feet in height. PERMITTED NON-RESIDENTIAL USES AND CONDITIONAL USES TALLER THAN THIRTY(30) FEET shall require a conditional use permit.*
- B. Accessory building height shall be governed by Section 17 of this Chapter.

515-52-9: Building Performance Standards.

- A. Minimum floor area per dwelling unit: Nine hundred sixty (960) feet.
- B. Minimum width/length of dwelling unit: Twenty-two (22) feet.
- C. Each dwelling unit shall be located on a permanent perimeter foundation in accordance with the Brainerd and Minnesota Building Code.

515-52-10: Lot Coverage.

- A. Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area.
- B. Non-residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

SECTION 53
R-E, SINGLE FAMILY ESTATE RESIDENTIAL DISTRICT

Section:

- 515-53-1: Purpose and Intent
- 515-53-2: Permitted Uses
- 515-53-3: Accessory Uses
- 515-53-4: Interim Uses
- 515-53-5: Conditional Uses
- 515-53-6: Uses by Administrative Permit
- 515-53-7: Lot Area and Setback Requirements
- 515-53-8: Building Height
- 515-53-9: Building Performance Standards
- 515-53-10: Lot Coverage

515-53-1: Purpose and Intent. The purpose of the R-E, Single Family Estate Residential District is to provide for larger, urban lots in areas containing unique natural features and amenities, as a means of protecting the amenities and promoting quality housing.

515-53-2: Permitted Uses.

- A. Single family dwellings.
- B. Forest and game management areas.
- C. Public recreation areas and related accessory buildings and structures.
- D. Residential facilities serving six (6) or fewer persons in a single family detached dwelling.
- E. Essential services as regulated by Section 36 of this Ordinance.

515-53-3: Accessory Uses.

- A. Open off-street parking space and private garages as regulated by Section 22 of this Ordinance.
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Recreation equipment and facilities for private use as regulated by Section 17 of this Ordinance.
- D. Solar energy systems and solar structures.

- E. Home businesses as regulated by Section 26 of this Ordinance.
- F. Tool houses and sheds and other such buildings for the storage of domestic tools, supplies and equipment subject to the provisions of Section 17 of this Ordinance.
- G. Storage of recreational vehicles and equipment as regulated by Section 24 of this Ordinance.
- H. Boarding or renting of rooms to not more than two (2) individuals per dwelling.
- I. In-home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- J. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only) 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 as regulated by Section 35 of this Ordinance.

515-53-4: Interim Uses.

- A. Home extended businesses as regulated by Section 26 of this Ordinance.

515-53-5: Conditional Uses.

- A. Regional pipelines, power transmission lines and relay towers and other essential services as regulated by Section 36 of this Ordinance.
- B. Public and private schools provided that:
 - 1. The site accesses a major collector
 - 2. The site is landscaped in accordance with Section 20 of this Ordinance.
 - 3. Off-street parking is provided in accordance with Section 22 of this Ordinance.
 - 4. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.
 - 5. Emergency vehicle access is provided to and within the site.
- C. Places of worship related buildings provided that:
 - 1. Side yards shall be thirty (30) feet.

2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
 4. Off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.
- D. Planned Unit Developments as regulated by Section 11 of this Ordinance.
- E. Bed and breakfast subject to provisions of Section 31 of this Ordinance.
- F. Cemeteries, subject to the following provisions:
1. The site accesses a major collector.
 2. The site is landscaped in accordance with Section 20 of this Ordinance.
- G. Government and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that when abutting a residential use in a residential use district, the property is screened and landscaped in accordance with Section 20 of this Ordinance.
- H. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-53-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-53-7: Minimum Lot Area and Setback Requirements.

- A. Lot Area Requirements:
1. Minimum Lot size: Fifteen (15,000) square feet.
 2. Maximum Lot Size: One (1) Acre.
 3. Lot Width: One hundred (100) feet.
 4. Lot Depth: Lot depth shall not exceed three times the width for the buildable area of the lot.

B. Principal Building Setbacks:

1. Front Yard: Thirty (30) feet.
2. Side Yard: Fifteen (15) feet.
3. Rear Yard: Thirty (30) feet.

C. Accessory Building and Structure Setbacks:

1. Front Yard: Thirty (30) feet.
2. Side Yard: Ten (10) feet.
3. Rear Yard: Ten (10) feet.

515-53-8: Building Height.

- A. ~~Buildings and structures exceeding thirty (30) feet in height shall require approval of a Conditional Use Permit, however, no building or structure shall be taller than forty five (45) feet.~~ *DWELLINGS SHALL NOT Buildings exceeding thirty (30) feet in height. PERMITTED NON-RESIDENTIAL USES AND CONDITIONAL USES TALLER THAN THIRTY (30) FEET shall require a conditional use permit.*
- B. Accessory building and structure height shall be governed by Section 17 of this Ordinance.

515-53-9: Building Performance Standards.

- A. Minimum floor area per dwelling unit: Nine hundred sixty (960) feet.
- B. Minimum width/length of dwelling unit: Twenty-two (22) feet.
- C. Each dwelling unit shall be located on a permanent perimeter foundation in accordance with the Brainerd and Minnesota Building Code.

515-53-10: Lot Coverage.

- A. Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area.
- B. Non-residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

SECTION 54
R-1A, SINGLE FAMILY RESIDENTIAL DISTRICT

Section:

- 515-54-1: Purpose and Intent
- 515-54-2: Permitted Uses
- 515-54-3: Accessory Uses
- 515-54-4: Interim Uses
- 515-54-5: Conditional Uses
- 515-54-6: Uses by Administrative Permit
- 515-54-7: Lot Area and Setback Requirements
- 515-54-8: Building Height
- 515-54-9: Building Performance Standards
- 515-54-10: Lot Coverage

515-54-1: Purpose and Intent. This district is established to allow areas of low density, single-family detached dwellings and to preserve the quiet single-family neighborhoods free from other uses except those which are both compatible with residents of such districts.

515-54-2: Permitted Uses.

- A. One-family detached dwellings.
- B. Public recreation areas and related accessory buildings and structures.
- C. Residential facilities serving six (6) or fewer persons in a single family detached dwelling.
- D. Essential services as regulated by Section 36 of this Ordinance.

515-54-3: Accessory Uses.

- A. Garages and open off-street parking for private residential use as regulated by Section 17 of this Ordinance.
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Recreation equipment and facilities for private use subject to Section 17 of this Ordinance.
- D. Solar energy systems and structures.
- E. Home businesses as regulated by Section 26 of this Ordinance.

- F. Tool houses and sheds and other such buildings for the storage of domestic tools, supplies and equipment subject to the provisions of Section 17 of this Ordinance.
- G. Storage of recreational vehicles and equipment as regulated by Section 24 of this Ordinance.
- H. Private recreational facilities for the enjoyment of the residents of the principal structure and their occasional guests.
- I. In home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- J. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only) 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 as regulated by Section 35 of this Ordinance.

515-54-4: Interim Uses.

- A. Home extended businesses as regulated by Section 26 of this Ordinance.
- B. Temporary buildings associated with a public or private principal school building and used for classrooms.

515-54-5: Conditional Uses.

- A. Planned Unit Developments are regulated by Section 11 of this Ordinance.
- B. Places of worship and related buildings provided that:
 - 1. Side yards shall be thirty (30) feet.
 - 2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 - 3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
 - 4. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

C. Cemeteries provided that:

1. The site accesses a major collector.
2. The site is landscaped in accordance with Section 20 of this Ordinance.

D. Public and private schools provided that:

1. The site accesses a major collector.
2. The site is landscaped in accordance with Section 20 of this Ordinance.
3. Off-street parking is provided in accordance with Section 22 of this Ordinance.
4. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.
5. Emergency vehicle access is provided to and within the site.

E. Hospitals provided that:

1. Side yards are double the minimum requirements established for this district and are screened in compliance with Section 20 of this Ordinance.
2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.

F. Public buildings on public land.

G. Bed and breakfast subject to provisions of Section 31 of this Ordinance.

H. Non-profit and not-for-profit offices located in buildings owned by the Brainerd Independent School District, not used for classroom education and subject to the following minimum requirements:

1. One (1) off-street parking space for each three hundred (300) square feet of office space.
2. No individual exterior entrances.
3. Business hours are limited from 7:00 a.m. to 9:00 p.m.
4. No exterior business signs.

- I. Government and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that when abutting a residential use in a residential use district, the property is screened and landscaped in accordance with Section 20 of this Ordinance.

515-51-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-54-7: Minimum Lot Area and Setback Requirements.

- A. Lot Area Requirements:

- 1. Lot size: Ten thousand (10,000) square feet.
- 2. Lot Width: Seventy-five (75) feet.
- 3. Lot Depth: Lot depth shall not exceed three times the width for the buildable area of the lot.

- B. Principal Building Setbacks

- 1. Front Yard: Thirty (30) feet.
- 2. Side Yard: Ten (10) feet, five (5) feet for attached garage.
- 3. Side Yard (corner): Twenty (20) feet.
- 4. Rear Yard: Thirty (30) feet.

- C. Accessory building and structure setbacks:

- 1. Front Yard: Thirty (30) feet.
- 2. Side Yard: Ten (10) feet.
- 3. Side Yard (corner): Twenty (20) feet.
- 4. Rear Yard: Ten (10) feet.

515-54-8: Building Height.

- A. ~~Buildings exceeding thirty (30) feet in height shall require approval of a conditional use permit, however, no building shall be taller than forty five (45) feet. DWELLINGS SHALL NOT~~ *Buildings exceeding thirty (30) feet in height. PERMITTED NON-RESIDENTIAL USES AND CONDITIONAL USES TALLER THAN THIRTY (30) FEET shall require a conditional use permit.*
- B. Accessory building and structure height shall be governed by Section 17 of this Ordinance.

515-54-9: Building Performance Standards.

- A. Minimum floor area per dwelling unit: Seven hundred fifty (750) feet.
- B. Minimum width/length of dwelling unit: Twenty-two (22) feet.
- C. Each dwelling unit shall be located on a permanent perimeter foundation in accordance with the Brainerd and Minnesota Building Code.

515-54-10: Lot Coverage.

- A. Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area.
- B. Non-residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

SECTION 55
R-1, TRADITIONAL SINGLE FAMILY RESIDENTIAL DISTRICT

Section:

- 515-55-1: Purpose and Intent
- 515-55-2: Permitted Uses
- 515-55-3: Accessory Uses
- 515-55-4: Interim Uses
- 515-55-5: Conditional Uses
- 515-55-6: Uses by Administrative Permit
- 515-55-7: Lot Area and Setback Requirements
- 515-55-8: Building Height
- 515-55-9: Building Performance Standards
- 515-55-10: Lot Coverage

515-55-1: Purpose and Intent. This district is established to allow and preserve areas in the City of quiet neighborhoods of one and two family homes, free from other uses except those which are compatible with residents of such a district.

515-55-2: Permitted Uses.

- A. Detached single family dwellings.
- B. Public recreation areas and related accessory buildings and structures.
- C. Residential facilities serving six (6) or fewer persons in a single family detached dwelling.
- D. Essential services as regulated by Section 36 of this Ordinance.

515-55-3: Accessory Uses.

- A. Garages and open off-street parking for private residential use subject to the provisions of Section 17.
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Storage of recreational vehicles and equipment for private use as regulated by Section 24 of this Ordinance.
- D. Solar energy systems and structures.
- E. Home businesses as regulated by Section 26 of this Ordinance.

- F. Tool houses and sheds and other such buildings for the storage of domestic tools, supplies and equipment subject to the provisions of Section 17 of this Ordinance.
- G. Private recreational facilities for the enjoyment of the residents of the principal building and their occasional guests.
- H. In home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- I. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only) 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 as regulated by Section 35 of this Ordinance.

515-55-4: Interim Uses.

- A. Home extended businesses as regulated by Section 26 of this Ordinance.
- B. Temporary buildings associated with a public or private principal school building and used for classrooms.

515-55-5: Conditional Uses.

- A. Off-premise surface parking lots and parking ramps subject to provisions of Section 22 of this Ordinance.
- B. Bed and breakfast subject to provisions of Section 31 of this Ordinance.
- C. Non-profit and not-for-profit offices located in buildings owned by the Brainerd Independent School District, not used for classroom education and subject to the following minimum requirements:
 - 1. One (1) off-street parking space for each three hundred (300) square feet of office space.
 - 2. No individual exterior entrances.
 - 3. Business hours are limited from 7:00 a.m. to 9:00 p.m.
 - 4. No exterior business signs.
- D. Planned Unit Developments as regulated by Section 11 of this Ordinance.

- E. Government and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that when abutting a residential use in a residential use district, the property is screened and landscaped in accordance with Section 20 of this Ordinance.
- F. Public and private schools provided that:
 - 1. The site accesses a major collector.
 - 2. The site is landscaped in accordance with Section 20 of this Ordinance.
 - 3. Off-street parking is provided in accordance with Section 22 of this Ordinance.
 - 4. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.
 - 5. Emergency vehicle access is provided to and within the site.
- G. Hospitals provided that:
 - 1. Side yards are double the minimum requirements established for this district and are screened in compliance with Section 20 of this Ordinance.
 - 2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
 - 3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.
- H. Places of worship and related buildings provided that:
 - 1. Side yards shall be thirty (30) feet.
 - 2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 - 3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
 - 4. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

515-55-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-55-7: Minimum Lot Area and Setback Requirements.

- A. Lot Area Requirements:

- 1. Lot size: Seven thousand (7,000) square feet.
- 2. Lot Width: Fifty (50) feet.
- 3. Lot Depth: Lot depth shall not exceed three times the lot width for the buildable area of the lot.

- B. Principal Building Setbacks:

- 1. Front Yard: Twenty (20) feet.
- 2. Side Yard: Five (5) feet.
- 3. Side Yard (corner): Twenty (20) feet, fifteen (15) feet for an attached garage.
- 4. Rear Yard: Twenty-five (25) feet.

- C. Accessory Building and Structure Setbacks:

- 1. Front Yard: Twenty (20) feet.
- 2. Side Yard: Three (3) feet.
- 3. Side Yard (corner): Fifteen (15) feet, twenty (20) feet if garage faces street.
- 4. Rear Yard: Five (5) feet.

515-55-8: Building Height.

- A. ~~Buildings exceeding thirty (30) feet in height shall require approval of a Conditional Use Permit, however, no building shall be taller than forty five (45) feet. DWELLINGS SHALL NOT~~ *Buildings exceeding thirty (30) feet in height. PERMITTED NON-RESIDENTIAL USES AND CONDITIONAL USES TALLER THAN THIRTY (30) FEET shall require a conditional use permit.*
- B. Accessory building and structure height shall be governed by Section 17 of this Ordinance.

515-55-9: Building Performance Standards.

- A. Minimum floor area per dwelling unit: Seven hundred fifty (750) feet.
- B. Minimum width/length of dwelling unit: Twenty-two (22) feet.

- C. Each dwelling unit shall be located on a permanent perimeter foundation in accordance with the Brainerd and Minnesota Building Code.

515-55-10: Lot Coverage.

- A. Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area.
- B. Non-residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

SECTION 56
R-2, MEDIUM DENSITY RESIDENTIAL DISTRICT

Section:

- 515-56-1: Purpose and Intent
- 515-56-2: Permitted Uses
- 515-56-3: Accessory Uses
- 515-56-4: Interim Uses
- 515-56-5: Conditional Uses
- 515-56-6: Uses by Administrative Permit
- 515-56-7: Lot Area and Setback Requirements
- 515-56-8: Building Height
- 515-56-9: Building Performance Standards
- 515-56-10: Lot Coverage

515-56-1: Purpose and Intent. The purpose of the Medium Density Residential District is to provide for low to medium density housing through the mixture of one and two unit dwellings and medium density multiple family dwellings as well as directly related complementary uses.

515-56-2: Permitted Uses.

- A. Single family detached dwellings.
- B. Two family attached dwellings.
- C. Multiple family buildings containing twelve (12) or less units.
- D. Public recreation areas and related accessory buildings and structures.
- E. Residential care facilities serving six (6) or more persons.
- F. Essential services as regulated by Section 36 of this Ordinance.

515-56-3: Accessory Uses.

- A. Rental offices.
- B. Garages and off-street parking for private residential use subject to provisions of Section 17 of this Ordinance.
- C. Fences as regulated by Section 19 of this Ordinance.
- D. Solar energy systems and structures.

- E. Home businesses as regulated by Section 26 of this Ordinance.
- F. Tool houses and sheds and other such buildings for the storage of domestic tools, supplies and equipment subject to the provisions of Section 17 of this Ordinance.
- G. Storage of recreational vehicles and equipment as regulated by Section 23 of this Ordinance.
- H. Private recreational facilities for the enjoyment of the residents of the principal structure and their occasional guests.
- I. In home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- J. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only) 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 as regulated by Section 35 of this Ordinance.

515-56-4: Interim Uses.

- A. None.

515-56-5: Conditional Uses.

- A. Nursing homes and similar group housing, not including hospitals , provided that:
 - 1. Side yards are double the minimum requirements established for the 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.
 - 4. Off-street parking is provided in compliance with Section 22 of this Ordinance.
 - 5. Off-street loading areas are provided in compliance with Section 23 of this Ordinance.

B. Senior housing provided that:

1. Not more than twenty (20) percent of the occupants may be persons fifty-five (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.
3. There is off-street parking in compliance with Section 22 of this Ordinance.
4. There is off-street loading space in compliance with Section 23 of this Ordinance.
5. Parking areas shall be screened and landscaped from view of surrounding and abutting residential districts in compliance with Section 20 of this Ordinance.
6. Elevator service shall be provided to each floor of the building.
7. Usable open space shall be at a minimum of twenty (20) percent of gross lot area.

C. Bed and breakfast subject to provisions of Section 31 of this Ordinance.

D. State licensed residential facilities serving seven (7) to sixteen (16) persons provided that:

1. The facility is licensed by the state and the operator of the facility provides documentation of compliance with all applicable federal, state and county regulations.
2. The entrance of the facility is located within 400 feet of a public transit route and stop, and pedestrian access is available, or the operators provide a transportation/access plan which is found acceptable by the City Council.

E. Non-profit and not-for-profit offices located in buildings owned by the Brainerd Independent School District, not used for classroom education and subject to the following minimum requirements:

1. Providing one off-street parking space for each three hundred (300) square feet of office space.
2. No individual exterior entrances.
3. Business hours are limited from 7:00 a.m. to 9:00 p.m.
4. No exterior business signs.

- F. Planned Unit Developments as regulated by Section 11 of this Ordinance.
- G. Residential townhome Planned Unit Developments as regulated by Section 11 of this Ordinance.
- H. Government and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that when abutting a residential use in a residential use district, the property is screened and landscaped in accordance with Section 20 of this Ordinance.
- I. Hospitals provided that:
 - 1. Side yards are double the minimum requirements established for this district and are screened in compliance with Section 20 of this Ordinance.
 - 2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
 - 3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.
- J. Places of worship and related buildings provided that:
 - 1. Side yards shall be thirty (30) feet.
 - 2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 - 3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
 - 4. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.
- K. Public and private schools provided that:
 - 1. The site accesses a major collector.
 - 2. The site is landscaped in accordance with Section 20 of this Ordinance.
 - 3. Off-street parking is provided in accordance with Section 22 of this Ordinance.

4. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.
5. Emergency vehicle access is provided to and within the site.

L. Boarding houses provided that:

1. Adequate off-street parking and access is provided.
2. Landscaping and screening is provided in accordance with Section 20 of this Ordinance.

515-56-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-56-7: Minimum Lot Area and Setback Requirements.

A. Lot Area Per Unit:

1. Single Family: Six thousand (6,000) square feet.
2. Two-Family: Six thousand (6,000) square feet.
3. Townhomes: Five thousand (5,000) square feet.
4. Multiple Family: Three thousand (3,000) square feet.

B. Lot Width Per Unit:

1. Single Family: Fifty (50) feet.
2. Two-Family: Fifty (50) feet.
3. Townhome: Twenty-five (25) feet.
4. Multiple Family: One hundred (100) feet.

C. Principal Building Setbacks:

1. Single Family and Two Family:
 - a. Front Yard: Twenty-five (25) feet.
 - b. Side Yard: Five (5) feet.
 - c. Side Yard (corner): Fifteen (15) feet.
 - d. Rear Yard: Twenty-five (25) feet.

2. Townhomes:
 - a. Front Yard: Twenty (20) feet.
 - b. Side Yard: Fifteen (15) feet.
 - c. Side Yard (corner): Twenty (20) feet.
 - d. Rear Yard: Twenty-five (25) feet.

D. Accessory Building and Structure Setbacks:

1. Single Family and Two Family:
 - a. Front Yard: Twenty (20) feet.
 - b. Side Yard: Three (3) feet.
 - c. Rear Yard: Three (3) feet.
2. Townhomes:
 - a. Front Yard: Twenty (20) feet.
 - b. Side Yard: Five (5) feet.
 - c. Side Yard (corner): Ten (10) feet.
 - d. Rear Yard: Five (5) feet.

515-56-8: Building Height.

- A. ~~Buildings in excess of thirty (30) feet in height shall require approval of a Conditional Use Permit, however, no building shall be taller than forty-five (45) feet. DWELLINGS SHALL NOT~~ *Buildings exceeding thirty (30) feet in height. PERMITTED NON-RESIDENTIAL USES AND CONDITIONAL USES TALLER THAN THIRTY (30) FEET shall require a conditional use permit.*
- B. Accessory building and structure height shall be governed by Section 17 of this Ordinance.

515-56-9: Building Performance Standards.

- A. Minimum Floor Area per Dwelling Unit:
 1. Single Family: Seven hundred fifty (750) square feet.
 2. Two-Family: Six hundred fifty (650) square feet.
 3. Townhome: Six hundred (600) square feet.
 4. Multiple Family:

- a. Efficiency: Four hundred (400) square feet.
- b. One bedroom: Five hundred (500) square feet.
- c. Two bedroom: Six hundred fifty (650) square feet.
- d. For each additional bedroom after two, six hundred fifty (650) square feet plus one hundred (100) square feet per bedroom in excess of two (2).

515-56-10: Lot Coverage.

- A. Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area.
- B. Non-residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

SECTION 57
R-3, HIGH DENSITY RESIDENTIAL DISTRICT

Section:

- 515-57-1: Purpose and Intent
- 515-57-2: Permitted Uses
- 515-57-3: Accessory Uses
- 515-57-4: Interim Uses
- 515-57-5: Conditional Uses
- 515-57-6: Uses by Administrative Permit
- 515-57-7: Lot Area and Setback Requirements
- 515-57-8: Lot Coverage and Building Height
- 515-57-9: Building Performance Standards
- 515-57-10: Lot Coverage

515-57-1: Purpose and Intent. The purpose of the High Density Residential District is to provide for areas of high density residential housing in multiple family structures including senior housing.

515-57-2: Permitted Uses.

- A. Multiple family dwellings.
- B. Two family attached dwellings.
- C. Public recreation areas and related accessory buildings and structures.
- D. Residential care facilities serving six (6) or fewer persons.
- E. Essential services as regulated by Section 36 of this Ordinance.

515-57-3: Accessory Uses.

- A. Accessory buildings including garages, tool sheds and similar buildings for the storage of domestic equipment and supplies and non-commercial recreational equipment as regulated by Section 17 of this Ordinance.
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Storage of recreational vehicles and equipment as regulated by Section 24 of this Ordinance.

- D. Private recreational facilities operated for the enjoyment of the on-site residents and their occasional guests.

515-57-4: Interim Uses.

- A. None

515-57-5: Conditional Uses.

- A. Public or semi-public recreational buildings and neighborhood or community centers; public and private educational institutions limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that:

1. Side yards shall be double that required for the district.
2. Screening from abutting residential uses in accordance with Section 20 of this Ordinance.
3. Off-street parking and access must be provided on the site or on lots directly abutting or across the street from the principal use subject to the provisions of Section 22 of this Ordinance.
4. Off-street loading and service entrances subject to Section 23 of this Ordinance.

- B. Nursing homes and similar group housing, not including hospitals, provided that:

1. Side yards are double the minimum requirements established for the 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.
4. Off-street parking is provided in compliance with Section 22 of this Ordinance.
5. Off-street loading areas are provided in compliance with Section 23 of this Ordinance.

- C. Senior housing provided that:
1. Not more than twenty (20) percent of the occupants may be persons fifty-five (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.
 3. Off-street parking in compliance with Section 22 of this Ordinance.
 4. Off-street loading space in compliance with Section 23 of this Ordinance.
 5. Parking areas shall be screened and landscaped from view of surrounding and abutting residential districts in compliance with Section 20 of this Ordinance.
 6. Elevator service shall be provided to each floor of the building.
 7. Usable open space shall be at a minimum of twenty (20) percent of gross lot area.
- D. Residential Planned Unit Developments: townhomes and quadraminiums as regulated by Section 11 of this Ordinance.
- E. Government and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that when abutting a residential use in a residential use district, the property is screened and landscaped in accordance with Section 20 of this Ordinance.
- F. Personal wireless service towers and antennas as regulated by Section 35.
- G. Places of Worship and related buildings provided that:
1. Side yards shall be thirty (30) feet.
 2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
 4. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

H. State Licensed Residential Care Facilities serving seven (7) to sixteen (16) persons provided that:

1. The facility is licensed by the state and the operator of the facility provides documentation of compliance with all applicable Federal, State and County regulations.
2. The entrance of the facility is located within four hundred (400) feet of a public transit route and stop, and pedestrian access is available, or the operators provide a transportation/access plan which is found acceptable by the City Council.

I. Public and private schools provided that:

1. The site accesses a major collector.
2. The site is landscaped in accordance with Section 20 of this Ordinance.
3. Off-street parking is provided in accordance with Section 22 of this Ordinance.
4. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.
5. Emergency vehicle access is provided to and within the site.

J. Senior center provided that:

1. Off-street parking is provided in accordance with Section 22 of this Ordinance.
2. Off-street loading is provided in accordance with Section 23 of this Ordinance.
3. The site is landscaped as regulated by Section 20 of this Ordinance.
4. The entrance to the senior center is located within four hundred (400) feet of a public transit route and stop and pedestrian access is available, or the operators provide a transportation/access plan which is found to be acceptable by the City Council.

515-57-6: Uses by Administrative Permit.

A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-57-7: Minimum Lot Area and Setback Requirements.

A. Lot Area Per Unit:

1. Two Family: Five thousand (5,000) square feet.
2. Townhome: Five thousand (5,000) square feet.
3. Multiple Family: Two thousand two hundred (2,200) square feet.
4. Multiple Family (senior): One thousand one hundred (1,100) square feet.

B. Principal Building Setbacks:

1. Front Yard: Thirty (30) feet.
2. Side Yard: Fifteen (15) feet.
3. Side Yard (corner): Twenty (20) feet.
4. Rear Yard: Twenty-five (25) feet.

C. Accessory building and structure setbacks:

1. Two Family:
 - a. Front Yard: Thirty (30) feet.
 - b. Side Yard: Three (3) feet.
 - c. Rear Yard: Three (3) feet.
2. Townhomes, Multiple Family, Multiple Family (senior):
 - a. Front Yard: Thirty (30) feet.
 - b. Side Yard: Fifteen (15) feet.
 - c. Side Yard (corner): Twenty (20) feet.
 - d. Rear Yard: Fifteen (15) feet.

515-57-8: Building Height.

- A. ~~Buildings in excess of thirty-five (35) feet in height shall require approval of a conditional use permit, however, no building shall be taller than forty-five (45) feet.~~ TWO FAMILY DWELLINGS SHALL NOT ~~Buildings exceeding thirty (30) feet in height.~~ MULTI FAMILY DWELLINGS, PERMITTED NON-RESIDENTIAL USES AND CONDITIONAL USES TALLER THAN THIRTY (30) FEET shall require a conditional use permit.
- B. Accessory building and structure height shall be governed by Section 17 of this Ordinance.

515-57-9: Building Performance Standards.

A. Minimum Floor Area per Dwelling Unit:

1. Efficiency: Four hundred (400) square feet.
2. One bedroom: Five hundred (500) square feet.
3. Two bedroom: Six hundred fifty (650) square feet.
4. For each additional bedroom after two, six hundred fifty (650) square feet plus one hundred (100) square feet per bedroom in excess of two.

515-57-10: Lot Coverage.

- A. Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area.
- B. Non-Residential Uses. Impervious surface lot coverage shall not exceed fifty (50) percent of the total lot area unless otherwise allowed by a grading and drainage plan approved by the City Engineer.

SECTION 58
R-MH, MANUFACTURED HOUSING DISTRICT

Section:

- 515-58-1 Purpose and Intent
- 515-58-2 Permitted Uses
- 515-58-3 Accessory Uses
- 515-58-4 Design and Operational Standards
- 515-58-5 Registration
- 515-58-6 Maintenance

515-58-1: Purpose and Intent. The purpose of this district is to provide a separate district for manufactured housing parks, distinct from other residential areas.

515-58-2: Permitted Uses.

- A. One-family detached manufactured dwellings.
- B. Public recreation areas and related accessory buildings and structures.

515-58-3: Accessory Uses.

- A. Home businesses as regulated in Section 26 of this Ordinance.
- B. Storage of private recreational vehicles and equipment subject to Section 23 of this Ordinance.
- C. Common swimming pool, sport courts and similar recreational facilities for the use of residents of the park and their occasional guests.
- D. Tool houses, sheds and similar buildings for the storage of domestic supplies and equipment.
- E. Private garages, parking spaces and car ports.
- F. Community laundry facilities, storm shelters, park offices and recreational buildings.

515-58-4: Design and Operational Standards.

- A. General Provisions:
 - 1. All land area shall be:

- a. Adequately drained;
 - b. Landscaped to control dust;
 - c. Clean and free from refuse, garbage, rubbish or debris.
2. No tents shall be used for other than recreational purposes in a manufactured housing park.
 3. There shall not be outdoor camping anywhere in a manufactured housing park.
 4. Access to manufactured housing parks shall be as approved by the City.
 5. All structures (fences, storage, cabana, etc.) shall require a Building Permit from the Building Official.
 6. The area beneath a manufactured housing unit shall be enclosed except that such enclosure must have access for inspection.
 7. A manufactured housing park shall have a central community building with the following features:
 - a. Laundry drying areas and machines;
 - b. Laundry washing machines;
 - c. Public toilets and lavatories;
 - d. Storm shelter.

Such buildings shall have adequate heating in all areas and be maintained in a safe, clear and sanitary condition.

B. Site Plan Requirements:

1. Legal description and size in square feet of the proposed manufactured housing park.
2. 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.).
3. Detailed landscaping plans and specifications.
4. Location and width of sidewalks.
5. Plans for sanitary sewage disposal, surface drainage, water systems, underground electrical service and gas service.

6. Location and size of all streets abutting the manufactured housing park and all driveways from such streets to the manufactured housing park.
7. Street and road construction plans and specifications.
8. Plans for any and all structures.
9. Such other information as required or implied by these manufactured park standards or requested by the Zoning Administrator.
10. Name and address of developer(s) and/or owner(s).
11. Description of the method of disposing of garbage and refuse.
12. Detailed description of maintenance procedures and grounds supervision.
13. Details as to whether all of the area will be developed a portion at a time.

C. 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 fourteen (14) feet wide or less).
 - a. Each manufactured housing site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant:
 - 1) Width: No less than fifty (50) feet.
 - 2) Depth: No less than one hundred (100) feet.
 - b. Each manufactured housing site shall have frontage on an approved street or roadway and the corner of each manufactured home shall be marked and each site shall be numbered.
3. Individual home sites (homes in excess of fourteen (14) feet, but less than eighteen (18) feet in width).
 - a. Each manufactured housing site shall contain at least six thousand fifty (6,050) square feet of land area for the exclusive use of the occupants:
 - 1) Width: No less than fifty-five (55) feet.
 - 2) Depth: No less than one hundred ten (110) feet.

- b. 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.
- 4. Individual manufactured housing sites (homes over eighteen (18) feet in width).
 - a. Each manufactured housing site shall contain at least six thousand five hundred (6,500) square feet of land area for the exclusive use of the occupant:
 - 1) Width: No less than sixty-five (65) feet.
 - 2) Depth: No less than one hundred (100) feet.
 - b. 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.
 - a. In all manufactured housing parks, no housing unit shall be located closer than ten (10) feet to its side lot lines nor closer than thirty (30) feet to its front lot line, or within ten (10) feet of its rear lot line.
 - b. 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.
- 6. Building Requirements.
 - a. No principal building shall exceed one (1) story or twenty-five (25) feet, whichever is least.
 - b. Accessory Buildings.
 - 1) Accessory buildings including garages shall be limited to one (1) per manufactured home lot.
 - 2) Maximum allowable floor area shall not exceed six and one-half (6.5) percent of the lot size.
 - 3) Maximum Building Height: Sixteen (16) feet.
 - 4) 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:

- a) No accessory building shall be located in the front yard.
- b) An accessory building may be located in side or rear yards.
- c) All accessory buildings shall be set back from all adjoining lots a minimum of five (5) feet. Garages may be allowed with a zero lot line setback and a shared driveway when built as a double garage and shared by adjacent lots.
- d) Accessory buildings shall not be located within any utility easements.
- e) On lots having a lot width of fifty-five (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 fifty (50) foot lot width, accessory buildings shall be located at least nine (9) feet from any building or structure on the same lot.

- c. The unit structure is in compliance with the Guidelines for Manufactured Housing Installation, International Conference of Building Officials, 1983, as may be amended.
- d. No manufactured home stand shall be used for parking more than one (1) manufactured home.

7. 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 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.

8. Utilities.

- a. All manufactured housing units shall be connected to a public water and sanitary sewer system or a private water and sewer system approved by the State Department of Health and the City.
- b. All installations for disposal of surface storm water must be approved by the City.

- c. All utility connections shall be as approved by the City.
 - d. The source of fuel for cooking, heating or other purposes at each manufactured housing site shall be as approved by the City.
 - e. All utilities shall be underground. There shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.
 - f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related mobile home equipment.
 - g. The park owner shall pay any required sewer connection fees to the City.
 - h. The park owner shall pay inspection and testing fees for utility service to the City.
 - i. Facilities for fire protection shall be installed as required by the City.
9. 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 twenty-eight (28) feet in width. If parking is permitted on the street then the roadbed shall be at least thirty-six (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.
10. Recreation.
- a. All manufactured housing parks shall have at least fifteen (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.

11. 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.

12. 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.

13 Storage.

- a. Enclosed storage lockers (when provided) shall be located whether adjacent to the manufactured home in a manufactured housing park or at such other place in the park as to be convenient to the unit for which it is provided, as approved by the City.
- b. Storage of larger items, such as boats, boat trailers, recreation vehicles, etc., shall be accommodated in a separate secured and screened area of the park, as approved by the City. No parking of such vehicles or equipment shall be permitted on the housing site.

515-58-5: Registration.

- A. 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:
 - 1. The name and address of each unit occupant.
 - 2. The name and address of the owner of each unit.

3. The make, model, year, and dimensions of each unit.
 4. The state, territory or county issuing each unit's license.
 5. The date of arrival and departure of each unit.
 6. The number and type of motor vehicles of residents in the park.
- B. 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.

515-58-6: 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.

SECTION 59
RESERVED

SECTION 60
B-1, RESIDENTIAL-OFFICE DISTRICT

Section:

- 515-60-1: Purpose and Intent
- 515-60-2: Permitted Uses
- 515-60-3: Accessory Uses
- 515-60-4: Uses by Administrative Permit
- 515-60-5: Interim Uses
- 515-60-6: Conditional Uses
- 515-60-7: Lot Area and Setback Requirements
- 515-60-8: Building Height
- 515-60-9: Exterior Building Standards

515-60-1: Purpose and Intent. This district allows single family uses and office space uses. This district serves as a transitional district between residential neighborhoods and commercial uses in areas where redevelopment is anticipated. The district includes uses that will not disrupt nearby, low-density land uses through high traffic generation, noise, or other nuisances.

515-60-2: Permitted Uses.

- A. Government and public buildings, utilities, and/or structures.
- B. Office Businesses-Clinic. Out-patient health services limited to general medical clinics, mental health providers, physical therapy, chiropractors, dentists, orthodontia, oral surgeons, and opticians.
- C. Office Businesses-General. Professional administrative or clerical service operations limited to attorneys, financial advisors, insurance, travel and real estate.
- D. Single family dwellings.
- E. Essential services as regulated by Section 36 of this Ordinance.

515-60-3: Accessory Uses.

- A. Private garages and off-street parking as regulated in Section 17 of this Ordinance.
- B. Off-street loading as regulated in Section 23 of this Ordinance.
- C. Tool houses and sheds and other such buildings for the storage of domestic tools, supplies and equipment subject to the provisions of Section 17 of this Ordinance.

- D. Fences as regulated in Section 19 of this Ordinance.
- E. Signs as regulated in Section 37 of this Ordinance.
- F. Radio and television receiving antennas, satellite dishes, TVROs 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 as regulated by Section 35 of this Ordinance.
- G. In-home day care serving fourteen (14) or fewer persons in a single family detached dwelling.
- H. Home businesses as regulated by Section 26 of this Ordinance.

515-60-4: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-60-5: Interim Uses.

- A. None

515-60-6: Conditional Uses.

- A. Funeral homes and mortuaries provided that:
 - 1. Parking and stacking areas are provided subject to the provisions of Section 22 of this Ordinance.
 - 2. The site accesses a collector road.
- B. Studios limited to art, dance, music, decorating and photography provided retail sales are limited to no more than ten (10) percent of building floor area.
- C. Places of worship and related buildings provided that:
 - 1. Side yards shall be thirty (30) feet.
 - 2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
 - 3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with

Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.

- E. Bed and breakfast subject to the provisions of Section 31 of this Ordinance.
- F. Planned Unit Developments as regulated by Section 11 of this Ordinance.

515-60-7: Minimum Lot Area and Setback Requirements.

Lot Area	10,000 square feet
Lot Width	75 feet
Front Yard Setback	20 feet
Side Yard Setback, internal lot	5 feet
Side Yard Setback, corner lot	20 feet
Rear Yard Setback	25 feet
Setback from adjacent residential zoning	30 feet
Adjacent to the alley	10 feet

515-60-8: Building Height. Not more than thirty-five (35) feet unless otherwise granted under a Conditional Use Permit.

515-60-9: Exterior Building Standards. As regulated by Section 17 of this Ordinance.

SECTION 61
B-2, NEIGHBORHOOD BUSINESS DISTRICT

Section:

- 515-61-1: Purpose and Intent
- 515-61-2: Permitted Uses
- 515-61-3: Accessory Uses
- 515-61-4: Uses by Administrative Permit
- 515-61-5: Interim Uses
- 515-61-6: Conditional Uses
- 515-61-7: Lot Area and Setback Requirements
- 515-61-8: Building Height
- 515-61-9: Exterior Building Standards

515-61-1: Purpose and Intent. The purpose of the B-2 District is to provide for the establishment of integrated neighborhood centers for convenient, limited office and retail businesses that serve nearby residential neighborhoods.

515-61-2: Permitted Uses.

- A. Commercial establishments offering merchandise or services to the general public in return for compensation. Commercial buildings shall be limited to five thousand (5,000) square feet of floor area or less and include the following uses:
1. Retail establishments such as groceries, hardware, pharmacy, clothing and furniture stores, liquor stores (off-sale only), florists, pharmacies, books, cards and gifts.
 2. Personal services such as barber/beauty shop, nail salon, tanning salon, therapeutic massage and spas.
 3. Office Businesses-Clinic. Out-patient health services limited to general medical clinics, mental health providers, physical therapy, chiropractors, dentists, orthodontia, oral surgeons, and opticians.
 4. Repair services such as jewelry and radio and television/appliance repair shops, household items, electronics, shoe repair, upholstery and locksmith.
 5. Office Businesses-General. Professional administrative or clerical service operations limited to attorneys, financial advisors, insurance, travel and real estate.
 6. On-site service businesses such as tailoring/alterations, banks, dry cleaners, self-service laundry and copy centers.

- 7. Decorating and photography studios.
- B. Government and public buildings, utilities, and/or structures.
- C. Essential services as regulated by Section 36 of this Ordinance.

515-61-3: Accessory Uses.

- A. Off-street parking as regulated by Section 22 of this Ordinance.
- B. Off-street Loading as regulated by Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Radio and television receiving antennas, satellite dishes, TVROs 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 as regulated by Section 35 of this Ordinance.

515-61-4: Uses by Administrative Permit.

- A. Temporary/seasonal outdoor promotional events and sales provided that:
 - 1. Such activity is targeted toward the general public and includes grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
 - 2. The maximum term of the event shall not exceed fourteen (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 or landscaped green strip.
 - 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 as approved in the Administrative Permit.
8. Temporary outdoor seasonal sales uses (with a valid administrative permit) may have one (1) on-site temporary sign not to exceed twenty-four (24) square feet in area and not more than six (6) feet in height.
9. A daily clean up program shall be presented as part of the Administrative Permit application.
10. Temporary sales displays shall not be located within a traffic visibility setback per Section 515-16-5.D of this Ordinance.

B. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-61-5: Interim Uses.

A. None.

515-61-6: Conditional Uses.

A. Private clubs and lodges provided that:

1. Side yards shall be thirty (30) feet.
2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Adequate off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
4. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

B. Restaurants without drive-up windows.

1. Side yards shall be thirty (30) feet.

2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
4. Off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

C. On-sale liquor establishments.

1. Side yards shall be thirty (30) feet.
2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
4. Off-street loading and service entrances are provided and regulated where applicable by Section 23 of this Ordinance.

D. Places of worship and related buildings provided that:

1. Side yards shall be thirty (30) feet.
2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.

E. Commercial day care facilities as regulated by Section 29 of this Ordinance.

F. Outdoor dining facilities accessory to a restaurant provided that:

1. The applicant shall submit a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations.

2. Access to the dining area be provided only via the principal building if the dining area is full service restaurant, including table waiting service.
3. The size of the dining area is restricted to thirty (30) percent of the total customer floor area within the principal structure.
4. The dining area is screened from view from adjacent residential uses in accordance with Section 20 of this Ordinance.
5. All lighting be hooded and directed away from adjacent residential uses in accordance with Section 18 of this Ordinance.
6. The applicant demonstrates 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 seating area 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.
7. 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.
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 subject to the storage prohibition of this section. However, any immovable or permanently fixed or attached furniture shall be approved as part of the Administrative Permit application.
9. Additional off-street parking may be required pursuant to the requirements set forth in Section 22 of this Ordinance based on the additional seating area provided by the outdoor dining area.
10. Refuse containers are to be provided for self-service outdoor dining areas.

- G. Planned Unit Development (including shopping centers) as regulated by Section 11 of this Ordinance.
- H. Motor vehicle fuel sales provided that:
1. Installation is in accordance with State and City standards. Additionally, 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 forty thousand (40,000) square feet and minimum lot frontage of one hundred (100) feet.
 3. Architectural standards are compliant with the required commercial design construction standards of Section 515-17-3 of this Ordinance.
 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 twenty (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 eighteen (18) feet in height and must provide fourteen (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 one hundred fifteen (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.
 - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
 - 1) The canopy signs do not exceed more than twenty (20) percent of the canopy façade facing a public right-of-way.

- 2) The canopy fascia shall not be illuminated except for permitted canopy signage.
 - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
 5. 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 thirty (30) feet back from any property line. Additionally, the setback between the pump islands curb face must be at least twenty-four (24) feet.
 6. Landscaping and screening must comply with standards set forth in Section 20 of this Ordinance.
 7. Lighting shall be in compliance with Section 18 of this Ordinance.
 8. 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.
 9. 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.
 10. 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.
- I. Funeral homes and mortuaries provided that:
1. Parking and stacking areas are provided subject to the provisions of Section 22 of this Ordinance.
 2. The site accesses a collector road.

515-61-7: Minimum Lot Area and Setback Requirements.

Lot Area	10,000 square feet
Lot Width	75 feet
Front Yard Setback	20 feet
Side Yard Setback, internal lot	5 feet
Side Yard Setback, corner lot	20 feet
Rear Yard Setback	10 feet
Setback from adjacent residential zoning	30 feet
Adjacent to alley	10 feet

515-61-8: Building Height. Not more than thirty-five (35) feet unless otherwise granted under a Conditional Use Permit.

515-61-9: Exterior Building Standards. Exterior building standards as regulated by Section 515-17-3 of this Ordinance.

SECTION 62
B-3, CENTRAL BUSINESS DISTRICT

Section:

- 515-62-1: Purpose and Intent
- 515-62-2: Permitted Uses
- 515-62-3: Accessory Uses
- 515-62-4: Uses by Administrative Permit
- 515-62-5: Interim Uses
- 515-62-6: Conditional Uses
- 515-62-7: Lot Area and Setback Requirements
- 515-62-8: Building Height
- 515-62-9: Exterior Building Standards
- 515-62-10: Residential Restriction

515-62-1: Purpose and Intent. The purpose of this 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 the allowance of second-story dwelling units located above such uses.

515-62-2: Permitted Uses.

- A. Government and public buildings, utilities and/or structures.
- B. Financial institutions such as banks and credit unions.
- C. Hospitality businesses limited to hotels, motels, conference/convention/reception facilities.
- D. Liquor sales, on and off sale.
- E. Office business – clinic such as general medical clinics, medical labs, mental health providers, chiropractors, dentists, orthodontia, oral surgeons, opticians, physical therapy and other out-patient treatment.
- F. Office business – general such as professional administrative or clerical service operations such as attorneys, financial advisors, insurance, travel and real estate.
- G. Personal services limited to barber shops, beauty salons, nail salons, tanning salons, therapeutic massage, spas, tattooing, tailoring/alterations, and schools/training centers for such uses.
- H. Recreational businesses - indoor.

- I. Restaurants – sit down, take out or delivery.
- J. Retail businesses contained within a principal building.
- K. Decorating and photography studios.
- L. Business, vocational, colleges, and universities located above first floor.
- M. Business when conducted entirely within a building.
- N. Theaters – except drive-in.
- O. Cultural facilities such as museums, art centers or art institutes.
- P. Repair services limited to jewelry and radio and television/small appliance repair shops, household items, electronics, shoe repair, upholstery or locksmith.
- Q. On-site service businesses limited to tailoring, dry cleaners, self-service laundry and copy centers.
- R. Music, art, decorating, photography and dance studios.
- S. Health clubs.
- T. Essential services as regulated by Section 36 of this Ordinance.
- U. Self-service Laundromat with dry cleaning pick up and drop off.

515-62-3: Accessory Uses.

- A. Uses incidental to the principal uses such as off-street parking as regulated by Section 17 of this Ordinance.
- B. Loading and unloading areas subject to the provisions of Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Radio and television receiving antennas, satellite dishes, TVROs 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 as regulated by Section 35 of this Ordinance.

515-62-4: Uses by Administrative Permit.

- A. Temporary/seasonal outdoor promotional events and sales provided that:
1. Such activity is targeted toward the general public and includes grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
 2. The maximum term of the event shall not exceed fourteen (14) consecutive days, with a maximum of four (4) permits per calendar year for each use. Consecutive permits may be issued.
 3. Parking and display areas associated with the use shall not distract or interfere with existing business operations or traffic circulation patterns.
 4. 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.
 5. Sales products, trailers, temporary stands, etc. shall be located on an asphalt or concrete surface as approved in the Administrative Permit.
 6. Temporary outdoor seasonal sales uses (with a valid administrative permit) may have one (1) on-site temporary sign not to exceed twenty-four (24) square feet in area and not more than six (6) feet in height.
 7. A daily clean up program shall be presented as part of the Administrative Permit application.
- B. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-62-5: Interim Uses.

- A. None.

515-62-6: Conditional Uses.

- A. Residential and non-residential uses within one (1) building, provided that:
1. Residential and non-residential uses shall not be contained on the same floor and no residential use shall be located on the first floor.
 2. Residential and non-residential uses shall have separate entrances and exits.

- B. Outdoor dining facilities accessory to a restaurant provided that:
1. The applicant submits a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations.
 2. Access to the dining area be provided only via the principal building if the dining area is full service restaurant, including table waiting service.
 3. The size of the dining area is restricted to thirty (30) percent of the total customer floor area within the principal structure.
 4. The dining area is screened from view from adjacent residential uses in accordance with Section 20 of this Ordinance.
 5. All lighting shall be hooded and directed away from adjacent residential uses in accordance with Section 18 of this Ordinance.
 6. The applicant demonstrates 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.
 7. 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.
 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 subject to the storage prohibition of this section. However, any immovable or permanently fixed or attached furniture shall be approved as part of the administrative permit application.

9. Additional off-street parking may be required pursuant to the requirements set forth in Section 22 of this Ordinance based on the additional seating area provided by the outdoor dining area.
 10. Refuse containers are to be provided for self-service outdoor dining areas.
- C. Planned Unit Developments without first floor residential, as regulated by Section 11 of this Ordinance.
- D. Private clubs and lodges provided that:
1. Off-street parking and access is provided in compliance with Section 22 of this Ordinance.
 2. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.
- E. Places of worship above the first floor.
- F. Commercial day care facilities are regulated by Section 29 of this Ordinance.
- G. Parking structures provided that the first floor contains a business use.

515-62-7: Lot Area and Setback Requirements. Minimum lot area, width, setback, and height requirements are not applicable. A thirty (30) foot setback shall be required for buildings located adjacent to residentially zoned property.

515-62-8: Building Height: Not more forty-five (45) feet unless otherwise granted under a Conditional Use Permit.

515-62-9: Exterior Building Standards. As regulated in Section 17 of this Ordinance.

515-62-10: Residential Restriction: First floor/street level residential uses are prohibited.

SECTION 63
B-4, GENERAL BUSINESS DISTRICT

Section:

- 515-63-1: Purpose and Intent
- 515-63-2: Permitted Uses
- 515-63-3: Accessory Uses
- 515-63-4: Uses by Administrative Permit
- 515-63-5: Interim Uses
- 515-63-6: Conditional Uses
- 515-63-7: Lot Area and Setback Requirements
- 515-63-8: Building Height
- 515-63-9: Exterior Building Standards

515-63-1: Purpose and Intent. The purpose of the General Business District is to allow more intensive commercial uses that require extensive highway access for customer contact.

515-63-2: Permitted Uses.

- A. Government and public buildings, utilities and/or structures.
- B. Financial institutions such as banks and credit unions.
- C. Hospitality businesses limited to hotels, motels, conference/convention/reception facilities.
- D. Liquor sales, on and off sale.
- E. Office business – clinic such as general medical clinics, medical labs, mental health providers, chiropractors, dentists, orthodontia, oral surgeons, opticians, physical therapy and other out-patient treatment.
- F. Office business – general such as professional administrative or clerical service operations such as attorneys, financial advisors, insurance, travel and real estate.
- G. Personal services such as barber shops, beauty salons, nail salons, tanning salons, therapeutic massage and tattooing.
- H. Recreational businesses - indoor.
- I. Restaurants – sit down, take out or delivery (Drive-up window requirements are listed in Accessory Uses).
- J. Retail businesses contained within a principal building.

- K. Business or trade school when conducted entirely within a building.
- L. Places of Worship and related buildings.
- M. Theaters – except drive-in.
- N. Cultural facilities such as museums, art centers, or art institute.
- O. Repair services limited to jewelry and radio and television/household appliance repair shops.
- P. On-site service businesses limited to tailoring/alterations, dry cleaners, self-service laundry and copy centers.
- Q. Pawn shops.
- R. Music, art, decorating, photography and dance studios.
- S. Taxi or bus dispatch sites.
- T. Adult Uses as regulated by Section 33 of this Ordinance.
- U. Essential services as regulated by Section 36 of this Ordinance.
- V. Equipment rental (indoor).

515-63-3: Accessory Uses.

- A. Uses incidental to the principal uses such as off-street parking as regulated by Section 17 of this Ordinance.
- B. Loading and unloading areas subject to the provisions of Section 23 of this Ordinance.
- C. Signs as regulated by Section 37 of this Ordinance.
- D. Fences as regulated by Section 19 of this Ordinance.
- E. Commercial accessory buildings shall not exceed thirty (30) percent of the gross floor space of the principal building.
- F. Drive-up service facilities provided that:
 - 1. Not less than one hundred twenty (120) feet of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are

provided, the minimum automobile stacking may be reduced to sixty (60) feet per lane.

2. The stacking lanes shall be setback three (3) feet from all property lines 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, alley 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 adjacent 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 adjoining 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 shall comply with Section 18 of this Ordinance.
- G. 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.
- H. Radio and television receiving antennas, satellite dishes, TVROs 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 as regulated by Section 35 of this Ordinance.

515-63-4: Uses by Administrative Permit.

- A. Temporary/seasonal outdoor promotional events and sales provided that:
1. Such activity is targeted toward the general public and includes grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
 2. The maximum term of the event shall not exceed fourteen (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 or landscaped green strip.
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 as approved in the Administrative Permit.
8. Temporary outdoor seasonal sales uses (with a valid Administrative Permit) may have one (1) on-site temporary sign not to exceed twenty-four (24) square feet in area and not more than six (6) feet in height.
9. A daily clean up program shall be presented as part of the Administrative Permit application.

B. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-63-5: Interim Uses.

A. None.

515-63-6: Conditional Uses.

A. Armories provided that:

1. Side yards shall be thirty (30) feet.
2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
3. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.

B. Automobile and truck repair - major and minor (including body shops) provided that:

1. 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.
2. 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, as amended.
3. 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, as amended.
4. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota Uniform Fire Code.
5. All outside storage shall be prohibited except for customer automobiles and trucks awaiting repair.

C. Commercial car washes (drive-up, mechanical and self-service) provided that:

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 thirty (30) minute period and shall be subject to the approval of the City Engineer.
3. The site shall be landscaped and screened in compliance with Section 20 of this Ordinance.
4. Parking or car stacking space shall be screened from view of abutting residential districts in compliance with Section 22 of this Ordinance.
5. 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.
6. The entire area shall have a drainage system which is subject to the approval of the City.
7. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 18 of this Ordinance.

8. 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.
9. Provisions are made to control and reduce noise.

D. Hospitals provided that:

1. Side yards are double the minimum requirements established for this district and are screened in compliance with Section 20 of this Ordinance.
2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.

E. Motor vehicle fuel sales provided that:

1. Installation is in accordance with State and City standards. Additionally, 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 forty thousand (40,000) square feet and minimum lot frontage of one hundred (100) feet.
3. Architectural standards are compliant with the required commercial design construction standards of Section 17 of this Ordinance.
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 twenty (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 eighteen (18) feet in height and must provide fourteen (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 one hundred fifteen (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.
 - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
 - 1) The canopy signs do not exceed more than twenty (20) percent of the canopy façade facing a public right-of-way.
 - 2) The canopy fascia shall not be illuminated except for permitted canopy signage.
 - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
5. 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 thirty (30) feet back from any property line. Additionally, the setback between the pump islands curb face must be at least twenty-four (24) feet.
6. Landscaping must comply with standards set forth in Section 20 of this Ordinance.
7. Lighting shall be in compliance with Section 18 of this Ordinance.
8. 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.
9. 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.

10. 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.

F. Outdoor sales and/or rental lot limited to lumber yards, motor vehicle and boat sales/rental, construction and landscaping sales/rental and farm implement sales/rental provided that:

1. Outdoor sales lots shall be associated with a principal building at least 1,000 square feet in gross floor area.
2. Outside storage areas are fenced and screened from view of neighboring residential uses, or an abutting residential district as regulated in Section 20 of this Ordinance.
3. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 18 of this Ordinance.
4. The use does not take up parking spaces as required for conformity to this Ordinance.
5. Sales area is paved with bituminous or concrete.
6. Outdoor sales area shall be set at least five (5) feet back from all property lines, and at least fifteen (15) feet back from any street surface.
7. Outdoor sales shall be physically defined on the site by surfacing, curbing, landscaping, or a fence barrier.
8. The boulevard portion of the street right-of-way shall not be used for parking, or storage or display of sale items.

G. Planned Unit Development (including shopping centers) as regulated by Section 11 of this Ordinance.

H. Outdoor dining facilities accessory to a restaurant, provided that:

1. The applicant must submit a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations.
2. Access to the dining area be provided only via the principal building if the dining area is full service restaurant, including table waiting service.

3. The size of the dining area is restricted to thirty (30) percent of the total customer floor area within the principal structure.
4. The dining area is screened from view from adjacent residential uses in accordance with Section 20 of this Ordinance.
5. All lighting be hooded and directed away from adjacent residential uses in accordance with Section 18 of this Ordinance.
6. The applicant demonstrates 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.
7. 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.
8. A minimum width of thirty-six (36) inches shall be provided within aisles of the outdoor dining area.
9. 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 subject to the storage prohibition of this section. However, any immovable or permanently fixed or attached furniture shall be approved as part of the Administrative Permit application.
10. Additional off-street parking shall be required pursuant to the requirements set forth in Section 22 based on the additional seating area provided by the outdoor dining area.

11. 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.

I. Small engine and boat repair provided that:

1. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 18 of this Ordinance.
2. The site shall be landscaped and screened in accordance with Section 20 of this Ordinance.
3. Vehicular access points shall create a minimum of conflict with through traffic movement shall be subject to the approval of the City Engineer.
4. Provisions are made to control and reduce noise.
5. No outside storage, repair or sales except in compliance with Section 23 of this Ordinance.

J. Animal hospital or clinic and kennels provided that:

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. An animal kennel is permitted as a use accessory to the 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.
 - c. 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.
 - d. 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.
 - e. Indoor animal kennel floors and walls shall be made of non-porous materials or sealed concrete to make it non-porous.

- f. 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.
- g. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.

K. Light manufacturing.

L. Radio and television studios.

M. Outdoor storage as an accessory use provided that:

- 1. The area is fenced and screened from view of the neighboring properties and public right of way in compliance with Section 20 of this Ordinance.
- 2. Storage area is paved with asphalt, bituminous or concrete or surfaced with crushed rock.

N. Colleges and universities provided that:

- 1. Side yards shall be thirty (30) feet.
- 2. Screening from abutting residential uses and landscaping is provided in compliance with Section 20 of this Ordinance.
- 3. Off-street parking and access is provided on the site or on lots directly abutting or directly across a public street or alley to the principal use in compliance with Section 22 of this Ordinance and that such parking is screened and landscaped from surrounding and abutting residential uses in compliance with Section 20 of this Ordinance.
- 4. Off-street loading and service entrances are provided as regulated by Section 23 of this Ordinance.

O. Auto dealership provided that:

- 1. Outdoor sales area shall be set at least five (5) feet back from all property lines, and at least fifteen (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.

4. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district in compliance with Section 20 of this Ordinance.
 5. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 18 of this Ordinance.
 6. All display/sales/storage areas shall be paved.
 7. Required parking shall be segregated from the sales display. The use shall not take up parking space as required for conformity to this Ordinance.
- P. Commercial day care facilities are regulated by Section 29 of this Ordinance.
- Q. Department of Human Services (DHS) licensed Drug and Alcohol Treatment and Recovery Facilities and Unlicensed Drug and Alcohol Treatment and Recovery Facilities that are substantially the same in character as a DHS licensed program of longer duration but not to exceed eighteen (18) months.

515-63-7: Lot Area and Setbacks Requirements.

Lot Area	20,000 square feet
Lot Width	100 feet
Front Yard Setback	30 feet
Side Yard Setback, internal lot	20 feet
Side Yard Setback, corner lot	30 feet
Rear Yard Setback	20 feet
Setback from adjacent residential zoning	30 feet
Adjacent to the alley	10 feet

515-63-8: Building Height. Not more forty-five (45) feet unless otherwise granted under a Conditional Use Permit.

515-63-9: Exterior Building Standards. As regulated by Section 17 of this Ordinance.

SECTION 64
B-5, COMMERCIAL AMUSEMENT DISTRICT

Section:

- 515-64-1: Purpose and Intent
- 515-64-2: Permitted Uses
- 515-64-3: Accessory Uses
- 515-64-4: Interim Uses
- 515-64-5: Conditional Uses
- 515-64-6: Lot Area and Setback Requirements
- 515-64-7: Building Height
- 515-64-8: Exterior Building Standards

515-64-1: Purpose and Intent. The purpose of the Commercial Amusement District is to provide locations for outdoor recreation and entertainment uses which have a regional draw in a district which is isolated from residential uses and other sensitive uses. It is the intent of the B-5 District to protect existing natural features, to preserve open space and to sensitively integrate development with the existing natural landscape.

515-64-2: Permitted Uses.

- A. Public parks and playgrounds.
- B. Recreational businesses – indoor.
- C. Private and public swimming pools and water parks.
- D. Theaters.
- E. Restaurants and on-sale liquor establishments.
- F. Hospitality businesses limited to hotels, motels, convention/reception facilities.
- G. Health clubs.
- H. Essential services as regulated by Section 36 of this Ordinance.

515-64-3: Accessory Uses.

- A. Off-street parking as regulated by Section 22 of this Ordinance.
- B. Signs as regulated by Section 37 of this Ordinance.

- C. Fences as regulated by Section 19 of this Ordinance.
- D. Drive-up service facilities provided that:
 - 1. Not less than one hundred twenty (120) feet of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty (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 adjacent 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 adjoining 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 shall comply with Section 18 of this Ordinance.

515-64-4: Interim Uses.

- A. Farms, farmsteads and farming.
- B. Aggregate mining of more than fifty (50) cubic yards not related to an approved subdivision or site plan, provided that:
 - 1. The use will be in compliance with Section 30 of this Ordinance and all related provisions of the City Code.
 - 2. The Interim Use Permit shall terminate at a date determined by the City Council to be adequate to allow for completion of the operation based upon:
 - a. The quantity of material to be removed and the plan of operation.
 - b. Compatibility of present and future land uses.
 - c. Compliance with the requirements of the Zoning Ordinance, Comprehensive Plan and conditions specific to the interim use permit approval.

515-64-5: Conditional Uses.

- A. Commercial recreational businesses with keeping of animals limited to commercial riding stables, rodeo facilities, zoos and zoological facilities provided that:
1. All buildings and areas containing animals are at least three hundred (300) feet from a residentially zoned property.
 2. 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.
 3. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.
- B. Auto racing tracks and go-cart tracks provided that:
1. A noise assessment is submitted, subject to the review and approval of City staff.
 2. Flammable liquid storage on site is subject to the review and approval of the City Engineer and the Fire Marshal.
 3. Hours of operation shall be limited to between 7:00 AM and 12:00 AM.
- C. Outdoor entertainment venues provided that:
1. A noise assessment is submitted subject to the review and approval of City staff.
 2. The facility shall not be lighted or used after 12:00 AM.
- D. Amusement parks provided that:
1. The site accesses a major collector road.
 2. Where applicable, all State of Minnesota Codes, Rules and Regulations shall apply. Verification that State Requirements are met shall accompany the application for a Conditional Use Permit.
 3. All structural and support parts shall not be located closer than three hundred (300) feet residential zoning district.
 4. The site must be surrounded by a six (6) foot high security fence with a locked gate when the facility is not in use.
 5. All amusement ride structures shall be designed to fall entirely within the boundaries of the site should structural failure occur.

- E. Public and private golf courses, golf driving ranges or miniature golf courses and related accessory buildings and uses, provided that:
1. All structures, greens, and fairways shall be set back at least one hundred (100) feet from any property line.
 2. No outside loudspeaker systems shall be utilized.
- F. Sports stadiums and related accessory buildings and uses provided that:
1. The site accesses a major collector road.
 2. A noise assessment including details on the public address system shall be subject to the review and approval of the City staff.
 3. Traffic exit strategy shall be provided subject to the review and approval of City staff, Fire Marshal and Chief of Police.
 4. Outdoor concession locations shall be designated on the submitted site plan.
 5. A refuse containment and collection plan is submitted.
 6. Site buffering shall be provided in accordance with Section 20 of this Ordinance.
 7. The stadium shall be surrounded by a security fence and a locked gate when not in use.
- G. Drive-in movie theater provided that:
1. Traffic exit strategy shall be provided subject to the review and approval of City staff, Fire Marshal and Chief of Police.
 2. A minimum fifty (50) foot planted buffer plus all required setbacks shall be established around the perimeter of the entire site.
- H. Campgrounds provided that:
1. Campsites shall be utilized by recreational vehicles and by tents (normally associated with outdoor camping), but not by manufactured housing.
 2. The maximum density shall not exceed one campsite per two thousand (2,000) square feet.

3. A minimum fifty (50) foot planted buffer plus all required setbacks shall be established around the perimeter of the entire development. Buffer areas shall be continuous except for approved access and utility easements.

515-64-6: Lot Area and Setback Requirements.

	<u>Permitted Uses</u>	<u>Conditional Uses</u>
Lot Area	40,000 square feet	10 acres
Lot Width	100 feet	300 feet
Front Yard Setback	50 feet	50 feet
Side Yard Setback, internal lot	25 feet	25 feet
Side Yard Setback, corner lot	50 feet	50 feet
Rear Yard Setback	50 feet	50 feet

515-64-7: Building Height. Not more than sixty (60) feet unless otherwise granted under a Conditional Use Permit.

515-64-8: Exterior Building Standards. Exterior building standards as regulated by Section 17 of this Ordinance.

SECTION 65
B-6, WASHINGTON STREET COMMERCIAL DISTRICT

Section:

- 515-65-1: Purpose and Intent
- 515-65-2: Permitted Uses
- 515-65-3: Accessory Uses
- 515-65-4: Uses by Administrative Permit
- 515-65-5: Interim Uses
- 515-65-6: Conditional Uses
- 515-65-7: Minimum Lot Area Requirements
- 515-65-8: Minimum Yards and Setbacks
- 515-65-9: Maximum Lot Coverage
- 515-65-10: Maximum Building Height
- 515-65-11: Building Design and Construction
- 515-65-12: Off-Street Parking and Loading

515-65-1: Purpose and Intent. The purpose and intent of the district is to provide zoning regulation flexibility to permit development consistent with land use patterns along the Washington Street corridor from the Mississippi River to Gillis Street. THE PURPOSE OF THE DISTRICT IS ALSO TO ENSURE COMPATABILITY BETWEEN LAND USES AND TRANSPORTATION AND TO MINIMIZE NEGATIVE AFFECTS OF DEVELOPMENT ON THE WASHINGTON STREET CORRIDOR.

515-65-2: Permitted Uses.

- A. Decorating and photography studios.
- B. Financial institutions.
- C. Liquor sales, on and off sale.
- D. Offices.
- E. Pawn shops.
- F. Personal services limited to barber shops, beauty salons, nail salons, tanning salons, therapeutic message and tattooing.
- G. Recreation businesses – indoor.
- H. Restaurants – sit down, takeout and delivery.
- I. Retail businesses within a principal building.

- J. Repair services limited to jewelry, radio and electronics, televisions and household appliances.
- K. Onsite service businesses such as tailoring, dry cleaning, self- service laundry and copy centers.
- L. Music, art and dance studios.
- M. Adult uses.
- N. Essential services as regulated by Section 36 of this Ordinance.

515-65-3: Accessory Uses.

- A. Accessory uses customarily incidental to permitted uses.
- B. Loading and unloading areas as regulated by Section 23 of this Ordinance.
- C. Signs.
- D. Fences.
- E. Drive-up service facilities provided that:
 1. Not less than one hundred twenty (120) feet of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty (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 adjacent 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 adjoining 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 shall comply with Section 18 of this Ordinance.

- F. Radio and television receiving antennas, satellite dishes, TVROs 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 as regulated by Section 35 of this Ordinance.
- G. Car wash accessory to motor vehicle sales.
- H. 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.

515-65-4: Uses by Administrative Permit.

- A. Temporary/seasonal outdoor sales and promotional events provided that:
 - 1. Such activity is targeted toward the general public and includes grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
 - 2. The maximum term of the event shall not exceed fourteen (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 or landscaped green strip.
 - 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 as approved in the administrative permit.
 - 8. Temporary outdoor seasonal sales uses (with a valid administrative permit) may have one (1) on-site temporary sign not to exceed twenty-four (24) square feet in area and not more than six (6) feet in height.

9. A daily cleanup program shall be presented as part of the administrative permit application.
- B. Personal wireless service antennas as regulated by Section 35 of this Ordinance.

515-65-5: Interim Uses.

- A. None.

515-65-6: Conditional Uses.

- A. Motor vehicle fuel sales provided that:
1. Installation is in accordance with State and City standards. Additionally, 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 forty thousand (40,000) square feet and minimum lot frontage of one hundred (100) feet.
 3. Architectural standards are compliant with the required commercial design construction standards of Section 515-17-3 of this Ordinance.
 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 twenty (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 eighteen (18) feet in height and must provide fourteen (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 one

hundred fifteen (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.
 - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
 - 1) The canopy signs do not exceed more than twenty (20) percent of the canopy façade facing a public right-of-way.
 - 2) The canopy fascia shall not be illuminated except for permitted canopy signage.
 - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
5. 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 thirty (30) feet back from any property line. Additionally, the setback between the pump islands curb face must be at least twenty-four (24) feet.
6. Landscaping must comply with standards set forth in Section 20 of this Ordinance.
7. Lighting shall be in compliance with Section 18 of this Ordinance.
8. 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.
9. 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.

10. 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.
- B. Planned unit development (including shopping centers) as regulated by Section 11 of this Ordinance.
- C. Outdoor dining facilities accessory to a restaurant provided that:
1. The applicant must submit a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations.
 2. Access to the dining area is provided only via the principal building if the dining area is full service restaurant, including table waiting service.
 3. The size of the dining area is restricted to thirty (30) percent of the total customer floor area within the principal structure.
 4. The dining area is screened from view from adjacent residential uses in accordance with Section 20 of this Ordinance.
 5. All lighting be hooded and directed away from adjacent residential uses in accordance with Section 18.
 6. The applicant demonstrates 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. Over story 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.
 7. 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.

8. A minimum width of thirty-six (36) inches shall be provided within aisles of the outdoor dining area.
9. 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 subject to the storage prohibition of this section. However, any immovable or permanently fixed or attached furniture shall be approved as part of the administrative permit application.
10. Additional off-street parking shall be required pursuant to the requirements set forth in Section 22 of this Ordinance based on the additional seating area provided by the outdoor dining area.
11. 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.

D. Small engine and boat repair provided that:

1. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 18 of this Ordinance.
2. The site shall be landscaped and screened in accordance with Section 20 of this Ordinance.
3. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.
4. Provisions are made to control and reduce noise.
5. No outside storage, repair or sales.

E. Animal hospital or clinic and kennels provided that:

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. An animal kennel is permitted as a use accessory to the 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.
- c. 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.
- d. 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.
- e. Indoor animal kennel floors and walls shall be made of non-porous materials or sealed concrete to make it non-porous.
- f. 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.
- g. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.

F. Radio and television studios

G. Automobile dealerships provided that:

- 1. Outdoor sales area shall be set at least five (5) feet back from all property lines, and at least fifteen (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.
- 4. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district in compliance with Section 20 of this Ordinance.
- 5. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 18 of this Ordinance.
- 6. All display/sales/storage areas shall be paved.

7. Required parking shall be segregated from the sales display. The use shall not take up parking space as required for conformity to this Ordinance.
- H. Commercial day care facilities regulated by Section 29 of this Ordinance.
- I. Car wash.

515-65-7: Minimum Lot Area Requirements.

- A. None.

515-65-8: Minimum Yards and Setbacks.

- A. Front Yard Setback:
1. Buildings: None.
 2. Parking: Ten (10) feet adjacent to a street or alley. None adjacent to railroad right-of-way.
- B. Side Yard Setback:
1. Buildings: None.
 2. Parking: Five (5) feet.
- C. Rear Yard Setback:
1. Buildings: Ten (10) feet adjacent to an alley. None adjacent to railroad right-of-way.
 2. Parking: Ten (10) feet adjacent to a street or alley. None adjacent to railroad right-of-way.

515-65-9: Maximum Lot Coverage.

- A. None.

515-65-10: Maximum Building Height. Not more than (3) stories or thirty-five (35) feet unless otherwise granted under a Conditional Use Permit.

515-65-11: Building Design and Construction. All buildings and structures in the overlay district shall comply with the design requirements of Section 515-17-3 (commercial requirements) of this Ordinance.

515-65-12: Off-Street Parking and Loading. Required off-street parking stalls and loading spaces shall conform to Section 22 and Section 23 of this Ordinance.

SECTIONS 66-69
RESERVED

SECTION 70
I-1, LIGHT INDUSTRY DISTRICT

Section:

- 515-70-1: Purpose and Intent
- 515-70-2: Permitted Uses
- 515-70-3: Accessory Uses
- 515-70-4: Interim Uses
- 515-70-5: Conditional Uses
- 515-70-6: Uses by Administrative Permit
- 515-70-7: Lot Area and Setback Requirements
- 515-70-8: Building Height
- 515-70-9: Building Requirements

515-70-1: Purpose and Intent. To provide for the establishment of warehousing and light industrial development, particularly in the form of industrial parks. The overall character of the I-1 District is intended to have low impact, office/manufacturing/warehousing character. Industrial uses allowed in this district shall be limited to those which can compatibly exist adjacent to both lower intensity business uses and high intensity manufacturing uses but which require isolation from residential uses. This district shall also incorporate general office businesses.

515-70-2: Permitted Uses.

- A. Conducting a process, fabrication, wholesale operation, manufacturing or providing a service, including any of the following or similar uses meeting the performance standards applicable to the I-1 District, provided that all development uses in the I-1 District are conducted wholly within a building:
 - 1. Machine shops.
 - 2. Paper products from previously processed paper.
 - 3. Electronics assembly and testing.
 - 4. Commercial printing and publishing establishments.
 - 5. Laundry, dry cleaning or dyeing plants.
 - 6. Food/beverage processing.
 - 7. Cosmetics/toiletries
 - 8. Drugs and pharmaceuticals.
 - 9. Beverage bottling.
 - 10. Recycling center.
 - 11. Woodworking.
- B. Radio and television studios.
- C. Research laboratories.

- D. Warehousing and wholesaling.
- E. Guard/Reserve facilities.
- F. Automobile body shop and transmission repair subject to the following conditions:
 - 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. No outdoor display of merchandise is permitted.
 - 4. No outdoor sales of merchandise is permitted.
- G. Government and public utility buildings and structures.
- H. Office business – general such as professional administrative or clerical service operations such as attorneys, financial advisors, insurance, travel and real estate.
- I. Contractor offices.
- J. Essential services as regulated by Section 36 of this Ordinance.

515-70-3: Accessory Uses.

- A. Off-street parking as regulated in Section 22 of this Ordinance.
- B. Off-street loading as regulated in Section 23 of this Ordinance.
- C. Signs as regulated in Section 37 of this Ordinance.
- D. Residence for night watchman or other security personnel.
- E. Commercial or business buildings not to exceed thirty (30) percent of the gross floor space of the principal building and shall be of the same material and design as the principal use.
- F. Fences as regulated in Section 19 of this Ordinance.
- G. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only) three (3) meters or less in diameter, short-wave dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers as regulated by Section 35 of this Ordinance.

H. Outdoor storage accessory to a principal use provided that:

1. 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.
2. Storage area is fenced in a manner approved by the City.
3. Storage area is paved or surfaced to control dust and erosion.
4. All lighting shall be in compliance with Section 18 of this Ordinance.
5. The storage area does not take up parking space or loading space as required for conformity to this Ordinance and not in front yards.
6. The property 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.
7. The storage area shall not abut a school or a public park.
8. The ratio of storage area to building footprint shall not exceed three and one-half to one (3.5:1).
9. Storage shall not include material considered hazardous under Federal or State Environmental Law.

515-70-4: Interim Uses.

A. Outdoor storage as a principal use provided that:

1. All storage is screened from view of neighboring uses and public rights-of-way via a fence or green belt planting strip or combination thereof in compliance with Section 20 of this Ordinance.
2. The storage area does not take up parking space or loading space as required for conformity to this Ordinance.
3. All lighting be in compliance with Section 18 of this Ordinance.
4. The storage area is fenced and secured as regulated by Section 19 of this Ordinance.
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.
- B. Billboard signs as regulated by Section 37 of this Ordinance.

515-70-5: Conditional Uses.

- A. Outdoor sales lot, provided that all outdoor storage be screened by a fence or compact evergreen hedge at least fifty (50) percent opaque at least six (6) feet high at time of planting.
- B. Bulk liquid storage provided that:
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 in compliance with Section 20 of this Ordinance.
 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 twenty-five (25) feet from any property boundary lines and setback one hundred fifty (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 twenty-five (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.

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.
- C. Planned Unit Developments as regulated by Section 11 of this Ordinance.
- D. Placement and operation of outdoor wood burning furnaces subject to the following conditions:
1. Outdoor wood burning furnaces shall be located at least twenty-five (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 one hundred (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 three hundred (300) feet.
- E. Retail sales incidental to the manufacture, processing or wholesaling of products manufactured on, processed on, or wholesaled from the premises subject, however, to the following conditions:
1. The retail sales area shall be segregated from the principal use of the building.
 2. The retail sales area shall not exceed ten (10) percent of the gross floor area of the building.

F. Animal hospital, clinic, kennels and shelters provided that:

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.

G. Trade/specialty schools.

H. Mini self storage facilities provided that:

1. At least twenty-five (25) percent of the site is open green space and landscaped in accordance with a plan approved by the City Council.
2. No buildings shall be located closer than twenty-five (25) feet to each other to allow for parking, loading, driveway and fire lanes.
3. No single building shall be greater than one hundred fifty (150) feet in length.
4. All structures are to be within two hundred (200) feet of a fire hydrant.
5. All storage buildings are to be equipped with an approved fire suppression system which will be subject to review and approval of the City Building Official and the Fire Department.

6. Every two thousand (2,000) square feet of the storage building is to be separated by a fire wall and a complete and comprehensive fire alarm system with smoke detectors shall be initiated in each structure subject to the review and approval of the Fire Department.
7. 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 insure adequate and safe access during winter months.
8. If an “on-premises” caretaker dwelling unit is provided, construction of said dwelling unit shall conform to all design standard regulations for multiple family dwelling units of the Minnesota State Building Code.
9. Any structures having exposure to an adjacent residential use or public right-of-way, park, or similar public use areas shall be of brick, natural stone, wood, or stucco facing material.
10. No retailing, wholesaling, manufacturing, repair, or other such activity other than storage is to occur within the self storage, mini warehousing facility.

515-70-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.
- B. Telecommunication towers as regulated by Section 35 of this Ordinance.
- C. Temporary mobile towers as regulated by Section 35 of this Ordinance.

515-70-7: Lot Area and Setback Requirements.

Lot Area	24,000 square feet
Lot Width	100 feet
Front Yard Setback	40 feet
Side Yard Setback, internal lot	10 feet
Side Yard Setback, corner lot	20 feet
Setback from adjacent residential zoning	100 feet
Rear Yard Setback	30 feet

515-70-8: Building Height. No more than thirty (30) feet, however, building heights in excess of the prescribed standard may be permitted through a Conditional Use Permit, provided that:

1. The site is capable of accommodating any increased intensity of use.
2. Any increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
3. Public utilities and services are adequate.
4. The front and side yard setbacks shall be increased one (1) foot for every foot of height in excess of thirty (30) feet.

515-70-9: Building Requirements.

- A. **Minimum Floor Area:** Industrial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a Conditional Use Permit.
- B. Exterior building elevations shall be as regulated in Section 17 of this Ordinance.

SECTION 71
I-2, GENERAL INDUSTRY DISTRICT

Section:

- 515-71-1: Purpose and Intent
- 515-71-2: Permitted Uses
- 515-71-3: Accessory Uses
- 515-71-4: Interim Uses
- 515-71-5: Conditional Uses
- 515-71-6: Uses by Administrative Permit
- 515-71-7: Lot Area and Setback Requirements
- 515-71-8: Building Height
- 515-71-9: Building Requirements

515-71-1: Purpose and Intent. The purpose of the I-2, General Industrial 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.

515-71-2: Permitted Uses.

- A. Any use permitted in the I-1 District as regulated herein.
- B. The manufacturing, compounding, assembly, packaging, treatment or storage of the following products conducted within a building and consistent with all performance standards outlined in this Ordinance:
 - 1. Brewing; cement; stone cutting; brick; glass; wet or dry mill working; metal polishing and plating; paint (pigment manufacturing); vinegar works; rubber products; plastics; meat packing; flour, feed and grain milling; vegetable canning and processing; lime; gypsum and plaster of paris; and similar uses.
- C. Adult Establishments as regulated by Section 33 of this Ordinance.
- D. Warehousing and distribution facilities.
- E. Wholesale businesses.
- F. Tire vulcanizing and recapping.
- G. Major auto and truck repair.

515-71-3: Accessory Uses.

- A. Accessory buildings and structures not exceeding thirty (30) percent of the gross floor area of the principal building.
- B. Fences as regulated by Section 19 of this Ordinance.
- C. Off-street loading as regulated by Section 23 of this Ordinance.
- D. Off-street parking as regulated by Section 22 of this Ordinance.
- E. Signs as regulated by Section 37 of this Ordinance.
- F. Radio and television receiving antennas, satellite dishes, TVROs (TV Receive Only) three (3) meters or less in diameter, short-wave dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers as regulated by Section 35 of this Ordinance.
- G. Brewery tasting rooms and product sales provided these do not occupy more than 10% of the site.

515-71-4: Interim Uses.

- A. None.

515-71-5: Conditional Uses.

- A. Coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing provided that:
 - 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 in compliance with Section 20 of this Ordinance.
 - 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.

- B. 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.
1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
 2. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 20 of this Ordinance.
 3. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
 4. Provisions are made to control and minimize noise, air and water pollution.
- C. Auto wrecking or salvage yard, junk yard, used auto parts, and similar uses, provided that:
1. The use is screened by a fence or compact evergreen hedge which is at least fifty (50) percent opaque and at least six (6) feet high.
 2. Outside storage area is adequately surfaced to control dust and drainage.
- D. Kilns, forges or other heat processes fired by means other than electricity.
- E. Commercial stockyards and slaughtering of animals provided that the use complies with all Federal regulations including USDA rules and regulations.
- F. Placement and operation of outdoor wood burning furnaces subject to the following conditions:
1. Outdoor wood burning furnaces shall be located at least twenty-five (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 one hundred (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 three hundred (300) feet.

- G. Crude oil, gasoline, liquid fertilizer or other liquid storage provided that:
1. A drainage system is installed subject to the approval of the City Engineer.
 2. Provisions are made to control and minimize noise, air and water pollution.
- H. Refuse/garbage collection, recycling and incineration or reduction of waste material provided that:
1. The storage of refuse or garbage in the front yard shall be prohibited.
 2. Vehicle parking and storage areas are screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 20 of this Ordinance.
 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. Parking of commercial vehicles shall be subject to the provisions of Section 22 of this Ordinance.
 6. 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.
 7. 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.
 8. Provisions are made to control and minimize noise, air and water pollution.
- I. Trucking terminals provided that:
1. Vehicular access points shall be located along arterial streets and shall be limited and designed and constructed to create a minimum of conflict with through traffic movement.
 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 in compliance with Section 20 of this Ordinance.
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.

J. Outdoor service, sale and rental as a principal or accessory use, provided that:

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 public rights-of-way in accordance with Section 20 of this Ordinance.
3. All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or neighboring properties as regulated by Section 18 of this Ordinance.
4. Sales area shall be hard surfaced to control dust and drainage.

K. Recycling Centers.

515-71-6: Uses by Administrative Permit.

- A. Personal wireless service antennas as regulated by Section 35 of this Ordinance.
- B. Telecommunication towers as regulated by Section 35 of this Ordinance.
- C. Temporary mobile towers as regulated by Section 35 of this Ordinance.

515-71-7: Lot Area and Setback Requirements.

Lot Area	40,000 square feet
Lot Width	150 feet
Front Yard Setback	40 feet
Side Yard Setback, internal lot	10 feet
Side Yard Setback, corner lot	20 feet
Rear Yard Setback	30 feet
Setback from adjacent residential zoning	100 feet

515-71-8: Building Height. No more than thirty (30) feet, however, building heights in excess of the prescribed standard may be permitted through a Conditional Use Permit, provided that:

- A. The site is capable of accommodating any increased intensity of use.
- B. Any increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
- C. Public utilities and services are adequate.
- D. The front and side yard setbacks shall be increased one (1) foot for every foot of height in excess of thirty (30) feet.

515-71-9: Building Requirements.

- A. **Minimum Floor Area:** Industrial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit.
- B. **Exterior Building Elevations.**
 - 1. Structures with ribbed steel are approved in all Industrial Districts. For the distance of a minimum of three (3) feet above the natural ground line of the structure, it must be constructed with veneer or use of alternate material on the street side. The building plan must bear the signature of a structural engineer licensed as such by the State of Minnesota.
 - 2. Any structure in an Industrial District within three hundred (300) feet of Business TH 371, TH 210, TH 25, TH 18, Oak Street or County Road 3 shall comply with the Commercial exterior design standards as outline in Section 515-17-3 of this Ordinance.
 - 3. **Accessory Buildings.** Accessory buildings shall be constructed of building materials to match the principal structure and comply with the building material requirements of this Ordinance.
 - 4. In all zoning districts, mechanical equipment such as heating, ventilation, or air conditioning units located anywhere on the property shall be screened and painted to match the building exterior.
 - 5. Mechanical equipment such as heating, ventilation or air conditioning units shall be directed away from adjacent residential properties.

SECTIONS 72 - 74
RESERVED

SECTION 75
PUD, PLANNED UNIT DEVELOPMENT DISTRICT

Section:

- 515-75-1: Purpose and Intent
- 515-75-2: Application
- 515-75-3: Procedures

515-75-1: Purpose and Intent. The purpose of the PUD, Planned Unit Development 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.

515-75-2: Application. All permitted, permitted accessory, or conditional uses contained in Section 51 through Section 71 of this Ordinance shall be treated as potentially permitted uses within a PUD District.

515-75-3: Procedure. Whether requested as a rezoning or initially established by City action, a PUD, Planned Unit Development District shall be established and governed subject to the amendment and procedure requirements as outlined in Section 4 of this Ordinance, plus the procedures, conditions and standards imposed by Section 11 of this Ordinance.

SECTION 76
FLOODPLAIN DISTRICTS

Section:

- 515-76-1: Purpose and Intent
- 515-76-2: General Provisions
- 515-76-3: Establishment of Zoning Districts
- 515-76-4: Subdivisions
- 515-76-5: Utilities, Railroads, Roads and Bridges
- 515-76-6: Flood Plain Permit
- 515-76-7: Non-Conforming Uses
- 515-76-8: Amendments
- 515-76-9: Extent of Districts

515-76-1: Purpose and Intent. The Legislature of the State of Minnesota, has, in Minnesota Statutes Chapter 104 and Chapter 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. The purpose of this Section is to minimize potential loss due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

515-76-2: General Provisions.

- A. Lands to Which Ordinance Applies. This section shall apply to all lands designated as Floodway District and Flood Fringe District within the jurisdiction of the City of Brainerd.
- B. Adoption of Flood Insurance Study. The Flood Insurance Study for the City of Brainerd dated September 2, 1981, developed by the Federal Insurance Administration and the Floodway and Flood Boundary and Flood Insurance Rate Maps contained therein are hereby adopted by reference and made part of this Ordinance.
- C. 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.
- D. Interpretation. The boundaries of the zoning districts shall be determined by scaling distances on the Flood Insurance Study maps. Where interpretation is needed as to the exact location of the boundaries of a district, the Zoning Administrator shall make the necessary interpretation based on elevations on the regional (100-year) flood profile and other available technical data.

515-76-3: Establishment of Zoning Districts. The floodplain areas within the jurisdiction of this Ordinance are hereby divided into two districts: Floodway District (FW) and Flood Fringe District (FF).

515-76-4: Subdivisions.

- A. No land shall be subdivided which is held unsuitable by the City Council for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation.
- B. For all subdivisions in the floodplain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- C. In General Floodplain District, applicants shall provide the information required to determine the 100-year flood elevation, The Floodway and Flood Fringe District boundaries and The Regulatory Flood Protection Elevation for the subdivision site.
- D. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year elevation. FEMA requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

515-76-5: Utilities, Railroads, Roads and Bridges.

- A. **Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood proofed in accordance with the State Building Code or elevated to at or above the Regulatory Flood Protection Elevation.
- B. **Public Transportation Facilities.** Roads, railroad tracks and bridges within the floodplain shall comply with the following:
 - 1. Bridges, culverts, and approach fills shall comply with provisions of Minnesota Regulations 6 MCAR 1.5025.
 - 2. Roads, railroad tracks, and bridges shall be elevated above the regulatory flood protection elevation if failure or interruption of transportation services would

endanger the public health or safety. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

- C. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided - 1) on site supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this system.

515-76-6: Floodplain Permit.

- A. A Floodplain Permit issued by the Zoning Administrator shall be secured prior to the construction, addition, or alteration of any building, structure or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- B. The application shall include 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. Prior to granting a permit or processing an application for a Conditional Use Permit Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
- D. The applicant shall submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the floodplain districts. The Zoning Administrator shall also maintain a record of the elevation to which structures and or alterations, additions to structures are flood-proofed.
- E. The Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

F. The Zoning Administrator shall notify the applicant for a Variance that: 1) the issuance of a Variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and, 2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all Variance actions. A record shall be maintained of all Variance actions, including justification for their issuance, and report such Variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

515-76-7: Non-Conforming Uses. Non-conforming uses shall meet the requirements of Section 15 as modified below:

- A. Structural alterations, which substantially reduce potential flood damages for the entire structure.
- B. Non-structural flood proofing.

515-76-8: Amendments.

All amendments to the Floodplain Sections of this Ordinance shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the boundaries of the Floodway or Flood Fringe Districts also required prior approval by the Federal Insurance Administration.

515-76-9: Extent of Districts.

The following regional floodway elevations shall be used to determine the extent of the districts.

<u>Locations</u>	<u>Distance From So. City Limits (Mi)</u>	<u>Elevation</u>
South City Limits	0	1164.3
College Drive Bridge	1.68	1165.2
Laurel Street Bridge	2.27	1165.9
Washington Street Bridge	2.47	1166.2
Downstream Paper Mill Dam	4.63	1167.2
Upstream Paper Mill Dam	4.63	1177.9
Mill Avenue (T.H. 25)	5.17	1178.2
North City Limits (Rice Lake)	5.73	1178.2

Flood elevations located between these points shall use the higher elevation listed.

Where these districts overlap other districts, the provisions of these districts shall be additive to and supersede the other districts. However, any use which is not permitted in the underlying district shall not be permitted in these districts.

SECTION 77
FW, FLOODWAY DISTRICT

Section:

- 515-77-1: Purpose and Intent
- 515-77-2: Permitted Uses
- 515-77-3: Standards for Floodway Permitted Uses
- 515-77-4: Conditional Uses

515-77-1: Purpose and Intent. The Floodway District shall include those areas designated as FLOODWAY in the Flood Insurance Study. The following uses have a low flood damage potential and do not obstruct flood flows and shall be permitted within the Floodway District as long as they are not prohibited by this or any other ordinance and provided they do not require structures, fill, or storage of materials or equipment, except where permitted as a conditional use. Any use not listed as a permitted, conditional or accessory use is not allowed within the Floodway District.

515-77-2: Permitted Uses.

- A. Agricultural uses such as general farming, pasture, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
- B. Industrial-commercial uses such as parking areas, loading areas and airport landing strips.
- C. Private and public recreational uses.
- D. Residential uses such as lawns, gardens, parking areas, and play areas.

515-77-3: Standards for Floodway Permitted Uses.

- A. The use shall have a low flood damage potential.
- B. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

515-77-4: Conditional Uses. In addition to the requirements specified as regulated by Section 5, Conditional Use Permits, the above uses shall also meet the requirements of Section 76 of this Ordinance.

- A. Structures accessory to park and recreational uses.

- B. Placement of fill.
- C. Extraction of sand, gravel, and other materials.
- D. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- E. Railroads, streets, bridges, utility transmissions lines, and pipelines.
- F. Other uses similar in nature.
- G. Storage yards for equipment, machinery or materials.
- H. Structural works for flood control such as levees, dikes and flood walls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

SECTION 78
FF, FLOOD FRINGE DISTRICT

Section:

- 515-78-1: Purpose and Intent
- 515-78-2: Permitted Uses
- 515-78-3: Accessory Uses
- 515-78-4: Conditional Uses

515-78-1: Purpose and Intent. The Flood Fringe District shall include those areas designated as FLOODWAY FRINGE in the Flood Insurance Study. The following uses shall be allowed within the Flood Fringe District to the extent that they are not prohibited by this or any other ordinance. Any use not listed below as a permitted, conditional, or accessory use is not allowed within the Flood Fringe District.

515-78-2: Permitted Uses.

- A. Any use permitted in the Floodway District as regulated therein.

515-78-3: Accessory Uses. Accessory structures and uses to the underlying district will be permitted provided:

- A. Structures shall not be designated for human habitation.
- B. Structures shall have a low flood damage potential.
- C. Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures and/or restriction of bridge openings and other narrow section of the street or river.
- D. Service facilities such as electrical and heating equipment shall be installed at or above the regulatory flood protection elevation for the particular area or adequately flood-proofed.

515-78-4: Conditional Uses.

- A. Any use permitted as a conditional use in the Floodway District.
- B. Nonresidential Structures. Commercial, manufacturing and industrial structures shall be elevated on fill so that their first floor (including basement) no lower than one (1) foot above the Regulatory Flood Protection.

In addition to the requirements specified in Section 5, Conditional Use Permit the above uses shall meet the requirements of Section 76, Floodplain Performance Standards.