

CITY OF BRAINERD
ZONING ORDINANCE

Current as of November 30, 2007

CITY OF BRAINERD
ZONING ORDINANCE

Current as of November 30, 2007

TABLE OF CONTENTS

	<u>PAGE</u>
SECTION 515.01	TITLE.....1
SECTION 515.03	INTENT AND PURPOSE.....1
SECTION 515.05	RULES AND DEFINITIONS.....1-17
Subd. 1	Rules.....1-2
Subd. 3	Definitions.....2-17
SECTION 515.07	GENERAL PROVISIONS.....17-24
Subd. 1	Application of this Ordinance.....17-18
Subd. 3	Separability.....18
Subd. 5	Subdivision of Lots.....18
Subd. 7	Non-Conforming Uses.....18-19
Subd. 9	Zoning Coordination.....19
Subd. 11	Zoning and the Comprehensive Plan19
Subd. 13	Accessory Buildings.....19-20
Subd. 14	Exterior Design Standards.....20-21
Subd. 15	Exterior Design Standards Zones.....21-23
Subd. 16	Required Yards and Open Space.....23-24
Subd. 17	Essential Services.....24
Subd. 19	Street Frontage Requirements.....24
Subd. 21	Placement and Operation of Outdoor Wood Burning Furnaces...24
SECTION 515.09	ADMINISTRATION.....24-34
Subd. 1	Enforcing Officer.....24
Subd. 3	Appeals and the Zoning Board of Appeals.....24-25
Subd. 5	Zoning Amendments.....25-26
Subd. 7	Conditional Use Permits.....27-31
Subd. 9	Variances.....31-33
Subd. 11	Permits.....33-34
Subd. 13	Fees.....34
SECTION 515.11	ZONING DISTRICTS AND DISTRICT PROVISIONS...34-35
Subd. 1	Zoning Districts.....34
Subd. 2	Zoning Map.....34-35

SECTION 515.13	RURAL AGRICULTURAL DISTRICT (R-A).....	35-36
Subd. 1	Purpose.....	35
Subd. 2	Permitted Use.....	35
Subd. 3	Accessory Uses.....	35-36
Subd. 4	Conditional Uses.....	36
Subd. 5	Minimum Lot Size Requirements and Setbacks.....	36
SECTION 515.15	RURAL RESIDENTIAL DISTRICT (R-F).....	36-38
Subd. 1	Purpose.....	36
Subd. 2	Permitted Use.....	37
Subd. 3	Accessory Uses.....	37
Subd. 4	Conditional Uses.....	37-38
Subd. 5	Minimum Lot Requirements and Setbacks.....	38
SECTION 515.17	SUBURBAN RESIDENTIAL DISTRICT (R-1).....	38-41
Subd. 1	Purpose.....	38
Subd. 2	Permitted Uses.....	38-39
Subd. 3	Accessory Uses.....	39
Subd. 4	Conditional Uses.....	39
Subd. 5	Minimum Lot size Requirements and Setbacks.....	40
SECTION 515.19	URBAN RESIDENTIAL DISTRICT (R-2).....	41-43
Subd. 1	Purpose.....	41
Subd. 2	Permitted Uses.....	41
Subd. 3	Accessory Uses.....	41
Subd. 4	Conditional Uses.....	41-42
Subd. 5	Minimum Lot Requirements and Setbacks.....	43
Subd. 7	Minimum Lot Area Pertaining to Senior and/or Physically Handicapped Housing.....	43
SECTION 515.21	MULTIPLE FAMILY DISTRICT (R-3).....	43-45
Subd. 1	Purpose.....	43
Subd. 2	Permitted Uses.....	43
Subd. 3	Accessory Uses.....	44
Subd. 4	Conditional Uses.....	44
Subd. 5	Density Requirements.....	44
Subd. 6	Minimum Lot Requirements and Setbacks for All Uses Excluding Apartments.....	44
Subd. 7	Minimum Lot Requirements and Setbacks for Multiple Family Dwellings-Apartments.....	45
Subd. 8	Minimum Floor Area per Dwelling Unit.....	45

SECTION 515.23	MANUFACTURED HOUSING DISTRICT (R-4)	45-46
Subd. 1	Purpose.....	45
Subd. 2	Permitted Uses.....	45
Subd. 3	Accessory Uses.....	45
Subd. 4	Conditional Uses.....	46
Subd. 5	Minimum Lot Requirements and Setbacks.....	46
SECTION 515.25	LIMITED BUSINESS DISTRICT (B-1)	46-48
Subd. 1	Purpose.....	46
Subd. 2	Permitted Uses.....	47
Subd. 3	Accessory Uses.....	47
Subd. 4	Conditional Uses.....	47-48
Subd. 5	Minimum Lot Requirements and Setbacks.....	48
SECTION 515.27	NEIGHBORHOOD BUSINESS DISTRICT (B-2)	48-50
Subd. 1	Purpose.....	48
Subd. 2	Permitted Uses.....	49
Subd. 3	Accessory Uses.....	49
Subd. 4	Conditional Uses.....	49-50
Subd. 5	Minimum Lot Requirements and Setbacks.....	50
SECTION 515.29	CENTRAL BUSINESS DISTRICT (B-3)	50-51
Subd. 1	Purpose.....	50
Subd. 2	Permitted Uses.....	50
Subd. 3	Accessory Uses.....	51
Subd. 4	Conditional Uses.....	51
Subd. 5	Minimum Lot Requirements and Setbacks.....	51
SECTION 515.31	GENERAL BUSINESS DISTRICT (B-4)	51-53
Subd. 1	Purpose.....	51
Subd. 2	Permitted Uses.....	51-52
Subd. 3	Conditional Uses.....	52-53
Subd. 4	Accessory Uses.....	53
Subd. 5	Minimum Lot Requirements and Setbacks.....	53
SECTION 515.33	LIGHT INDUSTRY DISTRICT (I-1)	53-55
Subd. 1	Purpose.....	53
Subd. 2	Permitted Uses.....	53-54
Subd. 3	Accessory Uses.....	54
Subd. 4	Conditional Uses.....	55
Subd. 5	Minimum Lot Requirements and Setbacks.....	55

SECTION 515.35	GENERAL INDUSTRY DISTRICT (I-2)	55-57
Subd. 1	Purpose.....	55
Subd. 2	Permitted Uses.....	55-56
Subd. 3	Accessory Uses.....	56
Subd. 4	Conditional Uses.....	56
Subd. 5	Minimum Lot Requirements and Setbacks.....	57
SECTION 515.37	FLOOD PLAIN DISTRICT	57-60
Subd. 1	Purpose.....	57
Subd. 2	General Provisions.....	57
Subd. 3	Establishment Districts.....	58
Subd. 4	Subdivisions.....	58
Subd. 5	Utilities, Railroads, Roads and Bridges.....	58-59
Subd. 6	Flood Permit.....	59-60
Subd. 7	Nonconforming Uses.....	60
Subd. 8	Amendments.....	60
Subd. 9	Extent Districts.....	60
SECTION 515.39	FLOODWAY DISTRICT (FW)	61-62
Subd. 1	Purpose.....	61
Subd. 2	Permitted Uses.....	61
Subd. 2.5	Standards for Floodway Permitted Uses.....	61
Subd. 3	Conditional Uses.....	61-62
SECTION 515.41	FLOOD FRINGE DISTRICT (FF)	62-63
Subd. 1	Purpose.....	62
Subd. 2	Permitted Uses.....	62
Subd. 3	Accessory Uses.....	62
Subd. 4	Conditional Uses.....	62-63
SECTION 515.43	PLANNED UNIT DEVELOPMENT (PUD)	63-70
Subd. 1	Purpose.....	63
Subd. 2	Permitted Uses.....	64
Subd. 3	General Requirements.....	64-65
Subd. 4	Residential Density.....	65
Subd. 5	Residential Density Transfer.....	65
Subd. 6	Coordination with Subdivision Resolution Regulations.....	65-66
Subd. 7	Pre-Application Meeting.....	66
Subd. 8	Preliminary Development Plan.....	66-67
Subd. 9	Final Development Plan.....	68
Subd. 10	Enforcing Development Schedule.....	68
Subd. 11	Conveyance and Maintenance of Common Open Space.....	69
Subd. 12	Standards for Common Open Space.....	69
Subd. 13	Planned Unit Development (PUD) Amendments.....	69-70

SECTION 515.45	PERFORMANCE STANDARDS.....	70
Subd. 1	Purpose.....	70
SECTION 515.47	SIGNS.....	71-73
Subd. 1	General Standards.....	71-72
Subd. 2	Signs in Residential Districts.....	72-73
Subd. 3	Signs in the Central Business District.....	73
Subd. 4	Signs in the Limited Business (B-1), Neighborhood Business (B-2) and General Business (B-4).....	73
Subd. 5	Signs in the Industrial Districts.....	73
SECTION 515.49	EXTERIOR STORAGE.....	73-74
SECTION 515.51	REFUSE.....	74
SECTION 515.53	TOXIC OR NOXIOUS MATTER.....	74
SECTION 515.55	AIR POLLUTION.....	74
SECTION 515.57	MISCELLANEOUS NUISANCES.....	74
SECTION 515.59	SCREENING.....	75
SECTION 515.61	FENCING.....	75
SECTION 515.63	GLARE.....	75-76
SECTION 515.65	BULK STORAGE (LIQUID).....	76
SECTION 515.67	NOISE.....	76
SECTION 515.69	DWELLING UNITS PROHIBITED.....	77
SECTION 515.71	VACATED STREETS.....	77
SECTION 515.73	PARKING.....	77-81
Subd. 1	Surfacing Drainage.....	77
Subd. 2	Location.....	77
Subd. 3	General Provisions.....	78
Subd. 4	Design and Maintenance of Off-Street Parking Areas.....	78-79
Subd. 5	Minimum Off-Street Spaces Required.....	79-81
Subd. 6	Shared Parking Facilities.....	81
SECTION 515.75	OFF-STREET AREAS.....	81-82
Subd. 1	General Provisions.....	82
Subd. 2	Number of Required Loading Berths.....	82-83

SECTION 515.77	AUTO SERVICE STATION STANDARDS.....	83-84
Subd. 1	Lot Size.....	83
Subd. 2	Setbacks.....	83
Subd. 3	Curb Gutters.....	83
Subd. 4	Fencing Screening.....	83
Subd. 5	Vehicles.....	83
Subd. 6	Exterior Storage.....	84
Subd. 7	Screening.....	84
Subd. 8	Outdoor Displays.....	84
Subd. 9	Architecture.....	84
SECTION 515.79	DRIVE-IN BUSINESS STANDARDS.....	84-85
Subd. 1	Design Standards.....	84
Subd. 2	General.....	84-85
Subd. 3	Locations.....	85
Subd. 4	Site Plan.....	85
SECTION 515.81	AGRICULTURAL OPERATIONS.....	86
SECTION 515.83	HOME OCCUPATIONS.....	86-87
Subd. 1	General Regulations.....	86-87
SECTION 515.85	MINING EXTRACTION.....	87-90
Subd. 1	Purpose.....	87
Subd. 2	Administration.....	87
Subd. 3	Information Required.....	87-89
Subd. 4	Performance Standards.....	89-90
Subd. 5	Land Rehabilitation.....	90
SECTION 515.87	PLATTING.....	90
SECTION 515.89	MAXIMUM REGULATIONS.....	91
SECTION 515.91	FLOOD PLAIN PERFORMANCE STANDARDS.....	91-93
Subd. 1	Standards for Floodway Conditional Uses.....	91-92
Subd. 2	Standards of Flood Fringe Conditional Uses.....	92-93
Subd. 3	Conditional Use Decision Factors.....	93
SECTION 515.92	TEA/COFFEE HOUSE.....	94
Subd. 1	Purpose and Intent.....	94
Subd. 2	Allowable Uses.....	94

SECTION 515.93	ADULT ESTABLISHMENTS.....	94-109
Subd. 1	Purpose and Intent.....	94-95
Subd. 2	Purpose.....	96
Subd. 3	Provisions.....	96
Subd. 4	Definitions.....	96-99
Subd. 5	Applications of this Ordinance.....	99-100
Subd. 6	Location.....	100
Subd. 7	Hours of Operation.....	100
Subd. 8	Operation.....	100-101
Subd. 9	Licenses.....	101-104
Subd. 10	Fees.....	104-106
Subd. 11	Inspection.....	106
Subd. 12	Expiration and Renewal.....	106
Subd. 13	Suspension.....	107
Subd. 14	Revocation.....	107-108
Subd. 15	Procedures.....	108-109
Subd. 16	Transfer of License.....	109
Subd. 17	Severability.....	109
Subd. 18	Effective.....	109
SECTION 515.94	BED AND BREAKFAST.....	109-111
SECTION 515.95	ENFORCEMENT.....	111-112
Subd. 1	Violations.....	111
Subd. 2	Penalties.....	111
Subd. 3	Application to Community Personnel.....	111
Subd. 4	Equitable Release.....	111
Subd. 5	Penalties for Violation in Flood Zone.....	111-112
SECTION 515.97	SEPARABILITY, SUPREMACY & EFFECTIVE DATE.....	112-113
Subd. 1	Separability.....	112
Subd. 2	Supremacy.....	113
Subd. 3	Effective Date.....	113
DATE OF APPLICATIONS FOR REQUESTS FOR ZONING PROCEDURES.....		113-127

SECTION 515 BRAINERD CITY ORDINANCE

AN ORDINANCE REGULATING THE USE OF LAND IN THE CITY OF BRAINERD BY DISTRICTS, INCLUDING THE REGULATION OF THE LOCATION, SIZE, USE AND HEIGHT OF BUILDINGS, THE ARRANGEMENT OF BUILDINGS ON LOTS AND THE DENSITY OF POPULATION FOR THE PURPOSE OF PROMOTING THE PUBLIC HEALTH, SAFETY, ORDER, CONVENIENCE AND GENERAL WELFARE OF BRAINERD.

SECTION 515.01 TITLE

Subd. 1. This Ordinance shall be known, cited and referred to as the Brainerd Zoning Ordinance.

SECTION 515.03 INTENT AND PURPOSE

Subd. 1. This Ordinance is adopted for the purposes of:

- (1) Protecting the public health, safety, morals, comfort, convenience and general welfare.
- (2) Promoting orderly development of land for residential, commercial, industrial, recreational land public uses.
- (3) Protecting and preserving the natural environment of the City.
- (4) Encouraging the protection of historic and esthetics resources in the City.
- (5) Conserving energy through the use of alternative energy systems and conservation through the encouragement of energy efficient structures for commercial, industrial, and residential uses.

SECTION 515.05 RULES AND DEFINITIONS

Subd. 1. Rules

The language contained in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- (1) The singular number includes the plural and the plural the singular.
- (2) The present tense includes the past and future tenses, and the future the present.
- (3) The word "shall" is mandatory, and the word "may" is permissive.

- (4) The masculine gender includes the feminine and neuter genders.
- (5) 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.
- (6) All measured distances expressed in feet shall be to the nearest tenth of a foot.
- (7) In the event of conflicting provisions, the more restrictive provisions shall apply.

Subd. 3. Definitions

The following words and terms, whenever they occur in this Ordinance, are defined as follows:

- (1) Accessory Apartment - One temporary apartment dwelling unit located in an owner-occupied single-family dwelling.
- (2) Accessory Structure - A structure of secondary or subordinate use to the principal structure, located on the same lot.
- (3) Accessory Use of Structure - A use of structure or portion of a structure subordinate to and serving the principal use structure on the same lot, which is fully compatible with and incidental to the principle use structure.
- (4) Active Solar System - A solar energy system that requires external mechanical power to move the collected heat.
- (5) Agricultural Building or Structure - Any building or structure, existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.
- (6) Agricultural Use - The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:
 - a. field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
 - b. livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
 - c. livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
 - d. tree farms.
- (7) Alley - A public right-of-way which affords secondary access to abutting property.
- (8) Apartment - A room or suite of rooms with cooking facilities available which is

occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two (2) dwelling units.

- (9) Apartment Building, High Rise - An apartment building three (3) or more stories in height, whose upper floors are accessible by elevator, and whose dwelling units are accessible through common corridors.
- (10) Apartment Building Walkup - An apartment building not more than three (3) stories above grade whose upper floors are accessible by stairs, and whose dwelling units are usually accessible through common corridors.
- (11) Assembly - 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.
- (12) 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".)
- (13) Automobile Body Shop - A building or any portion thereof designed primarily for major reconditioning of worn or damaged motor vehicles or trailers; collision service including body, frame, or fender straightening or repair; and overall painting of vehicles.
- (14) Automobile Service Station - A building or any portion thereof designed primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles.
- (15) 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.
- (16) 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.
- (17) Building - Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel 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.
- (18) 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.

- (19) Building Line - A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.
- (20) Building Setback - The minimum horizontal distance between the building and a lot line, or the normal high water mark of a stream or river.
- (21) Business - Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
- (22) Carport - An automobile shelter having one (1) or more sides open.
- (23) Church - 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.
- (24) City - City of Brainerd.
- (25) 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.
- (26) Cluster Development - The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land.
- (27) 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.
- (28) Community Residential Facility - A state licensed group home or foster home serving mentally retarded or physically handicapped persons.
- (29) 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.
- (30) Conditional Use - A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist, and (2) the structure and/or land use conform to the comprehensive land use plan, if one exists, and are compatible with the existing neighborhood.
- (31) Condominium - A form of individual ownership within a multi-family building with joint responsibility for maintenance and repairs. In a condominium, each apartment

or townhouse unit is owned by its occupant, along with an undistributed share of common buildings and land.

- (32) Conventional Energy System - Any energy system, including supply elements, furnaces, burners, tanks, boilers, related controls, and energy-distribution components which uses any source(s) of energy other than solar energy. These sources include, but are not limited to, gas, oil, coal, and wood materials but exclude windmills.
- (33) 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.
- (34) County - Crow Wing County, Minnesota.
- (35) 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.
- (36) Direct Sunlight - Sunlight unobstructed by any improvement or tree within the Solar Access Space.
- (37) Drive-In - Any use where products and/or services are provided to the customer under conditions where service is brought to the customer in the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.
- (38) Dwelling, Attached - One which is joined to another dwelling or building at one (1) or more sides by a party wall or walls.
- (39) Dwelling, Detached - A single dwelling unit which is entirely surrounded by open space on the same lot.
- (40) Dwelling Unit - A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses or tourist homes. There are four (4) principal types:
 - a. Single Family: A free-standing (detached) residence structure designed for or occupied by one (1) family only.
 - b. Two Family: A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each, refer commonly as a duplex.

- c. **Multiple Family:** A residence designed for or occupied by three (3) or more families, either wholly (attached) or partially a part of a large structure (detached), with separate housekeeping and cooking facilities for each.
 - d. **Multiple Family-elderly:** For the purposes of this ordinance, a dwelling unit restricted to occupancy by persons fifty-five (55) years of age or above.
- (41) **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.
 - (42) **Efficiency Unit** - A dwelling unit with one (1) primary room which doubles as a living room, kitchen, and bedroom.
 - (43) **Energy Storage Facility** - Equipment consisting of containers, heat exchangers, piping, and other transfer mechanisms (including fluids, gases, or solids), controls and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.
 - (44) **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.
 - (45) **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 towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith but not including buildings.
 - (46) **Exterior Storage (includes Open Storage)** - The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.
 - (47) **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.
 - (48) **Family** - An individual, or two or more persons related blood, marriage, or adoption, living together with not more than two additional persons not so related, as a housekeeping unit in a single dwelling unit. Each additional group of four or less persons living in such housekeeping unit shall be considered a separate, additional family for the purposes of this Ordinance.

- (49) 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.
- (50) 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.
- (51) Flood Frequency - The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (52) 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.
- (53) Flood Plain - The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- (54) 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.
- (55) 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.
- (56) Floor Area - The sum of the gross horizontal areas of the several floors of a building or buildings - measured from the exterior faces of exterior walls or from the centerline of party walls separating two (2) buildings. In particular, "floor area" shall include:
- a. Basement space if at least one-half ($\frac{1}{2}$) 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.
 - b. Elevator shafts and stairwells at each floor.
 - c. 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.
 - d. Attic floor space where the structural head-room exceeds seven and one-half ($7\frac{1}{2}$) feet.
 - e. Interior balconies and mezzanines.
 - f. Enclosed porches, but not terraces, breezeways, and screened porches.
 - g. Accessory uses, other than floor space devoted exclusively to accessory off-street parking or loading.
- (57) 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.

- (58) 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.
- (59) Frontage - That boundary of a lot, which abuts an existing or dedicated public street.
- (60) 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.
- (61) 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.
- (62) Home Extended Business - Any occupation or profession engaged in by the owner occupant of a dwelling unit within said dwelling unit which involves any of the following: the storage of stock-in-trade incidental to the performance of the service; repair or manufacturing which requires equipment other than that customarily found in a home; the employment on the premises at any one time, of not more than one person who is a non-resident of the premises; the teaching of more than one (1) but not more than four (4) non-resident students at any given time; or the need for not more than three (3) parking spaces in addition to spaces required for the persons residing on the premises. A home-extended business shall be subject to the approval of a conditional use permit, the duration of which is specifically limited to the period of time the realty is owned and occupied by the applicant. The proposed activity shall be clearly incidental and secondary to the residential use of the premises; shall not produce light, glare, noise, odor or vibration perceptible beyond the boundaries of the premises; shall not use an accessory structure; and, shall not consist of over-the-counter sales of merchandise produced off the premises.
- (63) Home Occupation - Any gainful occupation or profession engaged in by the owner and occupant of a dwelling at or from the dwelling when carried on within a dwelling unit. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barbershops, beauty shops, or similar uses. Evidence of the occupation shall not be visible from the perimeter of the lot, no signs other than those permitted in a residential district shall be present, no stock in trade shall be stored on the premises, over-the-counter retail sales shall not occur, and no more than two (2) parking spaces for the occupant and visitor shall be permitted. No accessory building shall be used for a home occupation, and entrance to the home occupation shall be gained from within the structure.
- (64) Hotel - A building which provides a common entrance, lobby, halls and stairway and in which thirteen (13) or more people can be, for compensation, lodged with or without meals.

- (65) 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.
- (66) Kennel - Any structure or premises on which three (3) or more of any single type of domestic animals over four (4) months of age are boarded, bred, or offered for sale.
- (67) Landscaping - To include, but not limited to plantings, trees, grass, ground cover and shrubs.
- (68) 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.
- (69) 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.
- (70) Lot of Record - Any lot which is one (1) unit of a record 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.
- (71) Lot Area - The area of a lot in a horizontal plane bounded by the lot lines.
- (72) 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.
- (73) Lot Depth - The mean horizontal distance between the front lot line and the rear lot line of a lot.
- (74) 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.
- (75) 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.
- (76) Lot Line Rear - That boundary of a lot which is opposite 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.

- (77) Lot Line Side - Any boundary of a lot which is not at the lot line or a rear lot line.
- (78) 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.
- (79) Lot Width - The maximum horizontal distance between the side lot lines of a lot measured at the front setback line.
- (80) Manufactured Single Family Dwelling - A manufactured single family dwelling is a structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is 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.
- (81) 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.
- (82) 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.
- (83) 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.
- (84) Multiple Residence (Apartment Building) - Three (3) or more dwelling units in one (1) structure.
- (85) 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.
- (86) 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.

- (87) 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.
- (88) Official Map - The map established by the City Council, in accordance with the Municipal Planning Act, (MSA 462), showing streets, highways, parks and drainage, both existing and proposed.
- (89) 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.
- (90) Open Space - Open areas, including parks, nature areas, playgrounds, and trails. This does not include holding ponds.
- (91) 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.
- (92) Ordinance - Brainerd Zoning Ordinance.
- (93) Parking Space - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) standard automobile.
- (94) 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.
- (95) Planning Commission - The Planning Commission of Brainerd except when otherwise designated.
- (96) Planned Unit Development - A development whereby buildings are grouped or clustered in and around common open space areas in accordance with a pre-arranged site plan and where the common open space is owned by the landowners and usually maintained by a owner's association.
- (97) Principal Use or Structure - All uses or structures that are not accessory uses or structures.
- (98) Print Shop, Medium and Large - facility primarily for the production of books, catalogs, manuals, magazines, tabloids, newspapers, circulars and the like.

- (99) Print Shop, Small - A facility primarily for the production of business cards, letterheads, envelopes, forms, brochures, flyers, newsletters, labels, over-the-counter job printing, duplicating, and photocopying services. Job printing shall not exceed 19" x 25" sheet size.
- (100) Property Line - The legal boundaries of a parcel of property.
- (101) 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.
- (102) Public Land - Land owned or operated by municipal, school district, county, state or other governmental units.
- (103) Public Open Space - Open space owned by the City, County, State, School District or other special district.
- (104) PUD - See Planned Unit Development. (pgs. 56-63)
- (105) 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.
- (106) Reclamation-land - The improvement of land by deposition of material to elevate the grade. And parcel upon which four hundred (400) cubic yards or more of fill are deposited shall be considered as reclaimed land.
- (107) Recreation, Commercial - Includes all uses such as bowling alleys, roller and ice skating rinks, driving ranges, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.
- (108) 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.
- (109) 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.
- (110) 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.

- (111) 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.
- (112) Residential Facility – 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.
- (113) Road - A right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated. Ingress and egress easements shall not be considered roads.
- (114) Setback - The minimum distance between a structure or sanitary facility and a road, highway or property line.
- (115) 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.
- (116) Sign - Any letters, figures, design, symbol, trademark, architectural or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever and painted, printed, or constructed and displayed in any manner whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem or insignia of a government, school, or religious group when displayed for official purposes.
- (117) Sign Advertising - A sign which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold or offered on the premises where the premises where such sign is located; a billboard.
- (117.7) 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 and capable of being readily removed.
- (118) 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.

- (119) 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.
- (120) Solar Energy - Radiant energy (direct, diffuse, and reflected) received from the sun.
- (121) 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.
- (123) 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.
- (124) 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.
- (125) Solar Structure - A structure designed to utilize solar energy as an alternate for, or supplement to a conventional energy system.
- (126) 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 percent (50%) 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.
- (127) Street - 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.
- (128) 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.
- (129) Street, Local - A street intended to serve primarily as an access to abutting

properties.

- (130) Street, Minor Arterial - Streets which serve as transitions between principal arterials and local collector streets.
- (131) 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.
- (132) Structural Alteration - Any change, other than incidental repairs, which would prolong or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.
- (133) Structure - Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but no limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/ vehicles not meeting the exemption criteria.
- (134) Structure, Nonconforming - A 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 structure is located.
- (135) Structure, Principal - The main building on a parcel of land.
- (136) 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:
- a. Where all the resulting parcels, tracts, lots, or interests will be ten (10) acres or larger in size and five hundred (500) feet in width for residential uses and ten (10) acres or larger in size for commercial and industrial uses;
 - b. Creating cemetery lots.
 - c. Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.
- (137) Surface - A road, driveway, approach, parking lot which consists of gravel, crushed rock, lime rock, bituminous surface, concrete surface, or other similar material.
- (138) 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.

- (139) Townhouse - A single family building attached by party walls to other single family buildings, and oriented so that all exits open to the outside.
- (140) 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.
- (141) 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.
- (142) 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.
- (143) Use, Nonconforming - Use of land, buildings, or structures legally existing at the time of adoption of this Ordinance which do not comply with the regulations of this Ordinance or any amendments here to governing the zoning district in which such use is located. Any use, which has been allowed as a conditional use, shall not be considered a non-conforming use.
- (144) Use, Permitted - A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.
- (145) 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.
- (146) 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.
- (147) Wetland - Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.
- (148) Wind Energy Conversion System - Any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of useable energy.
- (149) 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.

- (150) 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.
- (151) 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.
- (152) 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.
- (153) 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.
- (154) Zoning Administrator - The duly appointed person charged with enforcement of this Ordinance.
- (155) Zoning Amendment - A change authorized by the City either in the allowed use within a district or in the boundaries of a district.
- (156) 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 515.07 GENERAL PROVISIONS

Subd. 1. Application of this Ordinance

- (1) 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.
- (2) 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.
- (3) 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.

Subd. 3. Separability

It is hereby declared to be the intention that the several provisions of this Ordinance which are separable in accordance with the following:

- (1) 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.
- (2) 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.

Subd. 5. Subdivision of Lots

No lot or parcel of land in any district shall be split or subdivided so as to render the original lot non-conforming subject to the provisions of this district. No building permit shall be issued on a lot so conveyed.

Subd. 7. Non-conforming Uses

Any structure or use existing upon the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

- (1) No such use and structure shall be expanded or enlarged except in conformity with the provisions of this Ordinance.
- (2) A non-conforming use of a structure which has been discontinued for a period of twelve (12) months shall not be re-established and any further use shall be in conformity with the regulations of this Ordinance.
- (3) A non-conforming structure which is damaged by any cause to the extent of more than fifty percent (50%) of its market value as determined by the current records of the County Assessor, shall not be restored except in conformity with the regulations of this Ordinance.
- (4) Normal maintenance of a non-conforming use and structure is permitted. Maintenance may include necessary non-structural repairs and incidental alterations which do not enlarge or intensify the non-conforming use.
- (5) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques allowable in the State Building Code, except as further restricted in 4.4 below.
- (6) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial

flood plain controls must be calculated into today's current cost which will include all cost such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 515.36 and 515.37 of this Ordinance, depending whether the structure is in the Floodway or Flood Fringe, respectively.

- (7) The enforcing officer shall conduct an inspection on a periodic basis any or all non-conforming uses and report his findings to the City Council for City Council consideration.

Subd. 9. 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.

Subd. 11. Zoning and the Comprehensive Plan

Any change in zoning granted by the governing body shall automatically amend the Comprehensive Plan in accordance with said zoning change.

Subd. 13. Accessory Buildings

- (1) No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.
- (2) No accessory building or structure, unless an integral part of the principal building, shall be erected, altered, or moved within 5 feet of the principal building. No accessory building shall exceed 15 feet in height except as hereinafter provided.
- (3) No accessory building shall exceed the height of the principal building.
- (4) No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.
- (5) An accessory building may be located within the rear yard setback provided that the lot is not a through lot and said accessory building does not occupy more than 25 percent of a required rear yard. An accessory building shall be considered as part of a principal building if it is located less than 5 feet from the principal building. No accessory building shall be located less than 8 feet from a rear lot line; 20 feet if it faces an alley. Where structures on adjacent lots have setbacks less than the minimum established herein, the setback of a new structure may conform to the average setback established by the structures located on that block, but in no case shall the setback be less than 4 feet. Accessory structures on a through lot shall require a conditional use permit.
- (6) All accessory buildings in Zoning Districts R-1, R-2, R-3 and R-4, shall have the

same or similar finish as the neighboring homes and be homogeneous in design.

- (7) Outdoor storage: All shipping/storage containers used for outdoor storage and office space are prohibited except:
 - a. In an I-1 or I-2 Zone and limited to one (1) container per property.
 - b. Temporary use for storage of construction materials during the construction of a building in all other zones. Once construction has been completed said container(s) must be removed within 10 days after project close out as determined by the City Building Official.

Subd. 14. Exterior Design Standards

- (1) Purpose. The purpose of this section is to establish minimum standards for exterior architecture of commercial, residential, office, industrial buildings is to ensure high quality of development, redevelopment and compatibility with evolving architectural or planning themes that contribute to a community image of quality, visual aesthetics, permanence and stability which are in the best interest of the citizens of the city. These standards are intended to prevent use of materials that are unsightly, rapidly deteriorate, contribute to depreciation of area property values, or cause urban blight.

These standards are further intended to ensure coordinated design of building exteriors, additions and accessory structure exteriors in order to prevent visual disharmony; minimize adverse impacts on adjacent properties from buildings which are or may become unsightly, and buildings that detract from the character and appearance of the area. It is not the intent of this division to unduly restrict design freedom when reviewing and approving project architecture in relationship to the proposed land use, site characteristics and interior building layout.

- (2) General Requirements. This division shall apply to all residential, commercial, office and industrial buildings, additions, exterior remodeling and accessory structures, unless different exterior materials are specifically approved as part of an overall planned unit development (PUD) that creates a theme or blends with other elements of the PUD. The review and approval process shall be the same as outlined in Section 515.09 Subd. 7 of the Zoning Ordinance.

Subd. 15. Exterior Design Standards Zones

- (1) Residential.
 - a. RF/RA: Principal and accessory structures in Rural Agricultural Districts (RA) and Rural Residential Districts (RF) of the City on parcels over 3 acres in size are not subject to the exterior design standards.
 - b. All other residential accessory buildings must comply with 515.07, Subd. 13 paragraph 6 of the Brainerd Zoning Ordinance.

(2) Commercial.

- a. Exterior surface materials of buildings shall be constructed of the following classes of materials:
 1. Brick
 2. Natural stone
 3. Glass
 4. Metal panels of no longer than 10 ft. horizontal length and 6 ft vertical height on sides of building have greater than a 12 ft. on 12 ft. pitch.
 5. Specialty concrete block such as textured, burnished block or rock faced block
 6. Architecturally pre-cast textured concrete panels
 7. Masonry stucco
 8. Exterior Finish Installation System (EFIS)
 9. Ceramic
 10. Glass block
 11. Wood (Exterior Finished Grade)
 12. Others as approved by the Planning Commission
- b. Garage doors, metal panels, window trim, flashing, accent items, and the like, shall not constitute required materials that make up the exterior of a building not to exceed 25%.
- c. Equipment used for mechanical, processing, bulk storage tanks, or equipment used for suppressing noise, odors and the like that protrudes from a side of a building or is located on the ground adjacent to a building shall be screened from public view as much as practical with materials matching the design of the building. Where miscellaneous exterior equipment cannot be fully screened with matching building materials, landscaping may be used as additional screening.
- d. 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.
- e. 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.
- f. 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.
- g. Metal cabinets used to enclose and protect rooftop mechanical equipment shall not substitute as screening.
- h. 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 International Building Code.

- i. Garish or bright accent colors (i.e. orange, bright yellow, or fluorescent colors) for such buildings such as cloth or metal awnings, trim, banding, walls, entries or any portion of the building shall be minimized, but in no case shall such coloring exceed five (5) percent of each wall area.
- j. Building addition of less than 50% of the gross floor area of the existing structure may use the same or superior materials as the existing structure. In the event that the exterior of a building (50% or greater), is proposed to be modified, remodeled, replaced and/or reconstructed, said building shall conform with the standard established in this section except for building with load bearing walls shared with abutting buildings located in B-3 Zones and shall be required to conform to said standard if 75% or greater improvements are made to street facing exteriors of the building. Expansions shall be calculated over a 5-year period for determination of this gross floor area amount.
- k. All standards stated above will include B-1, B-2, B-3, and B-4 Zones
- l. Exempt from these standards are temporary structures

(3) Industrial. Structures, with ribbed steel, are approved in all “T” Districts. For the distance of a minimum 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.

- a. Any structure in an Industrial District within 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 Design Standards of the Zoning Ordinance in Section 515.07 Subd. 14.

Subd. 16. Required Yards and Open Space

- (1) No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this Ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.
- (2) No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space, or minimum lot area requirements for any other building.
- (3) The following shall not be considered to be encroachments on yard requirements.
 - a. Belt courses, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters, and the like, provided they do not extend

more than four feet into a yard.

- b. Terraces, steps, 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 to a distance of less than two (2) feet from any lot line.
 - c. Decks, balconies, and the like, 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 and front yard accessory building setbacks.
 - d. Fences, in residential areas six feet or less, all other districts 8 feet or less, walls 42 inches high or less, and hedges 6 feet in height or less. On a corner lot, nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2 and 8 feet above the centering grades of the intersecting streets within 20 feet of the street intersecting right-of-way lines.
- (4) 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.
 - (5) Lots which abut on more than one street, shall provide the required front yards along every street except for lots of record which shall provide a side yard setback abutting the street of 20 feet.
 - (6) In residential districts where structures on adjacent lots existing on the effective date of this Ordinance have setbacks less than the minimum established herein, the front yard setback of a new structure shall conform to the average setback established by the structures located on that block, but in no case shall the setback be less than twenty (20) feet.

Subd. 17. Essential Services

Essential services shall be permitted use in all zoning districts as authorized and regulated by state law and the City of Brainerd, except that electrical substations greater than 115 KV, and electrical transmission lines greater than 50 KV shall require a Conditional Use Permit.

Subd. 19. Street Frontage Requirement

No lot shall contain a building used for a dwelling unless it abuts a minimum of 20 feet on a public street.

Subd. 21. Placement and Operation of Outdoor Wood Burning Furnaces

Placement and operation of outdoor wood-burning furnaces shall be allowed only upon issuance of a Conditional Use Permit in the R-A, R-F, R-1, R-2, R-3, and R-4 Zoning

Districts, and prohibited in all other zoning districts of the City.

SECTION 515.09 ADMINISTRATION

Subd. 1. Enforcing Officer

The City Council shall appoint a Zoning Administrator.

The Zoning Administrator shall enforce this Ordinance and shall perform the following duties:

- Maintain permanent and current records of this Ordinance, including but not limited to map, amendments, variances and conditional uses.
- Receive, file, and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.
- Institute in the name of the City, any appropriate actions or proceedings against a violator as provided for.
- Serve as an ex-officio non-voting member of the Planning Commission.
- The Zoning Administrator shall have the authority to authorize the City Building Department to enforce the provisions of this Ordinance.

Subd. 3. Appeals and the Board of Adjustments and Appeals

The Brainerd City Council shall serve as the Board of Adjustment and Appeals.

The Board of Adjustment and 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.

The Board of Adjustment and 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 515.09, Subd. 9 of this ordinance. No use variances shall be issued by the Board of Adjustment and Appeals.

Hearings of the Board of Adjustment and 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.

The Board of Adjustment and 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.

Subd. 5. Zoning Amendments

- (1) The City Council may adopt amendments to the Zoning Ordinance and zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Policies Plan or changes in conditions in the City.

- (2) The Flood Plain designation on the Official Zoning Map shall not be removed from Flood Plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the Flood Plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

- (3) Procedure
 - a. An amendment to the text of the Ordinance or zoning map may be initiated by the City Council, the Planning Commission or by the verified petition of not less than fifty percent (50%) of those property owners situated wholly or partly within a 350 foot radius of the property to which the amendment relates. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Council until it has received the Planning Commission recommendations. Individuals wishing to initiate an amendment to the Zoning Ordinance shall fill out a zoning amendment application form and submit it to the Zoning Administrator.

 - b. 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.

 - c. A public hearing on the rezoning application shall be held by the Planning Commission within sixty (60) days after the request for the zoning amendment has been received. Notice of said hearing shall be published in

the official newspaper designated by the City Council at least ten (10) days prior to the public hearing. 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.

- d. The mailed notice requirement shall be waived for a city-wide amendment initiated by the Planning Commission or City Council. The Planning Commission shall make its report to the City Council within thirty (30) days following the hearing recommendation approval, disapproval or modified approval of the proposed amendment.
- e. The City Council must take action on the application within sixty (60) days following referral by the Planning Commission. 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.
- f. 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.

Subd. 7. Conditional Use Permits

(1) Criteria for Granting Conditional Use Permits

In granting a Conditional Use Permit, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of occupants or surrounding lands. Among other things, the City Council shall make the following findings where applicable.

- a. The proposed use conforms to the district and conditional use provisions and all general regulations of this Ordinance.
- b. The proposed use meets all special standards which may apply to its class of conditional uses as set forth in this section.
- c. The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the requirements of Section 515.09 Subd. 7(2).
- d. The proposed use shall be sited, oriented and landscaped to produce a

harmonious relationship of buildings and grounds to adjacent buildings and properties.

- e. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
- f. The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.
- g. The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the Comprehensive Plan.

(2) 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:

- a. 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.
- b. Electrical Disturbance: No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.
- c. Noise: Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purpose shall be exempt from this requirement.
- d. Vibrations: Vibrations detectable without instruments on neighboring property in any district shall be prohibited.
- e. Odors: No odorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
- f. 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.
- g. Glare: Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.
- h. Erosion: No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.
- i. Water Pollution: Water pollution shall be subject to the standards

established by the Minnesota Pollution Control Agency.

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:

- j. Increasing the required lot size or yard dimension.
- k. Limiting the height, size or location of buildings.
- l. Controlling the location and number of vehicle access points.
- m. Increasing the street width.
- n. Increasing the number of required off-street parking spaces.
- o. Limiting the number, size, location or lighting of signs.
- p. Requiring a dike, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- q. Designating sites for open space.

The following may be added as conditions to properties in a Flood Zone:

- r. Modification of waste treatment and water supply facilities.
- s. Limitations on period of use, occupancy, and operation.
- t. Imposition of operational controls, sureties, and deed restrictions.
- u. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- v. Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

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.

(3) Procedure

- a. The person applying for a Conditional Use Permit shall fill out and submit to the Zoning Administrator a Conditional Use application form and required filing fee. This form shall contain, but not be limited to, the following data:
1. Detailed legal description of the property.
 2. Site plan showing location of all buildings and structures with dimensions.
 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. Off-street parking, drives and access plan.
 8. Off-street loading plan, if any, is necessary.
 9. Plan for adjustment to existing rights-of-way, easements, utilities and new dedications.
 10. Architectural plans showing elevations, entrances, heights, floor plans and material to be used on the exterior.
 11. 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.

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.

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.

- a. The Zoning Administrator shall review the application for adequacy and forward it to the Planning Commission for review.
- b. 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.
- c. A copy of the application for the proposed Conditional Use Permit within a Flood Zone shall be mailed to the Commissioner of Natural Resources so that the Commissioner will receive at least ten (10) days notice of the hearing. Violations to send such notice are punishable under Section 515.97.
- d. The Planning Commission shall make a recommendation on the application within sixty (60) days after receiving the application. If it recommends the conditional use permit, the Commission may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
- e. The City Council must take action on the application within thirty (30) days after receiving the report of the Planning Commission. If it grants the conditional use permit: the City Council may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
- f. A copy of all decisions granting Conditional Uses within the Flood Zone shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action. Violation to send such notice is punishable under Section 515.97.
- g. An amended conditional use permit application shall be administered in a manner similar to that required for a new special use permit, amended special use permits shall include requests for changes in conditions, and as otherwise described in this Ordinance.
- h. No application for a conditional use permit shall be resubmitted for a period of six months from the date of said order of denial.
- i. If a time limit or 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.

- j. 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.
- k. Conditional Use Permits issued shall be recorded in the office of the County Recorder as per Minnesota statutes.

Subd. 9. Variances

(1) Criteria for Granting Variances

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 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; and
- 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.

(2) 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.
- 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 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 and 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.
 - c.1. A copy of the application for the proposed Variance shall be mailed to the Commissioner of Natural Resources so that the Commissioner will receive at least ten (10) days notice of the hearing (this only applies to applications in the Flood Zone).
- d. The Planning Commission shall make a recommendation on the application within sixty (60) days after receiving the application. If it recommends the variance, the Commission may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
- e. The City Council, within thirty (30) days after receipt of the report of the Planning Commission, may grant or deny the variance pursuant to criteria herein established.
 - e.1. A copy of all decisions granting Variances within the Flood Zone shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- f. An application for a variance shall not be resubmitted for a period of six months following denial.

Subd. 11. Permits

(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.

(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: plans in duplicate 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 am channel.

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.

Permits, Conditional Use Permits, or Certificates of Zoning Compliance 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. Any use, arrangement, or construction at variance with the authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 515.95 of this Ordinance.

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.

Subd. 13. Fees

The application fees for zoning amendment, variance and conditional use permit shall be established by the City Council. The City Council may review and revise all or portions of the fee schedule. The acceptance of all zoning applications and issuance of permits shall not occur until the appropriate fee has been paid.

SECTION 515.11 ZONING DISTRICTS AND DISTRICT PROVISIONS

Subd. 1. 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.

For the purposes of this Ordinance, the City of Brainerd is hereby divided into the following Zoning Districts:

<u>Symbol</u>	<u>Name</u>
RA	Rural Agricultural District
RF	Rural Residential District
R-1	Suburban Residential District
R-2	Urban Residential District
R-3	Multiple Family District
R-4	Manufactured Housing District
B-1	Limited Business District
B-2	Neighborhood Business District
B-3	Central Business District
B-4	General Business District
I-1	Light Industry District
I-2	General Industry District
FW	Floodway District
FF	Flood Fringe District
PUD	Planned Unit Development

Subd. 2. Zoning Map

The locating 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. District boundary lines as indicated on the Zoning Map follow lot lines, property lines, right-of-way or center lines of streets or alleys, right-of-way or center lines of streets or alleys projected, railroad right-of-way lines, the corporate limit lines, center line of rivers, all as they exist upon the effective date of this Ordinance. If said boundary lines do not follow any of the above, the district boundary lines are established as drawn on the Zoning Map.

Any land, which may be annexed to the City in the future shall be placed in the Rural Residential District until such time that the City Council amends the zoning district; however, the City Council may designate the zoning district for said parcel at the time of annexation.

SECTION 515.13 RURAL AGRICULTURAL DISTRICT (R-A)

Subd. 1. Purpose

This District is intended for areas where urban public utilities are not presently available. A density of not more than one lot per 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.

Subd. 2. Permitted Use

- (1) Agricultural, the keeping of one or more horses, nurseries, greenhouses for growing only, landscape gardening and tree farms, including sale of products

grown on premises.

- (2) Single family dwellings.
- (3) Home Occupations as regulated by Section 515.83.
- (4) Forest and Game management areas.
- (5) Public Recreation areas.
- (6) Cemeteries.

Subd. 3. Accessory Uses

- (1) Garages for private use.
- (2) Barns, stables, silos, other agricultural buildings.
- (3) Fences.
- (4) Recreation equipment for private use.
- (5) Solar Energy Systems and Solar Structures.

Subd. 4. Conditional Uses

- (1) Regional pipelines, power transmission lines and relay towers.
- (2) Churches and church related buildings.
- (3) Home extended businesses.
- (4) Mining or land reclamation.
- (5) The provisions of two (2) lodging rooms with a maximum of four (4) lodgers per dwelling or the provisions of table board in a dwelling which is owner occupied.
- (6) Day Care Facility operated in a church or in public or private schools.
- (7) Placement and Operation of Outdoor Wood Burning Furnaces – Subject to provisions of Section 515.07 Subd. 21.

Subd. 5. Minimum Lot Requirements and Setbacks

Lot size	20 acres
Lot width	500 ft.
Front Yard Setback	50 ft.
Rear Yard Setback	
- Non-agricultural buildings	35 ft.
- Livestock buildings	200 ft.

Accessory buildings	8 ft.
Side Yard	
- Agricultural buildings	200 ft.
- Non-agricultural buildings	10% of lot width
- Non-agricultural buildings, corner lot, street side	30 ft.
- Maximum height	35 ft., except agricultural structures such as silos, etc.

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

SECTION 515.15 RURAL RESIDENTIAL DISTRICT (R-F)

Subd. 1. Purpose

The purpose of this district is to allow for existing rural uses and single-family residences as a transitional district. It is designed specifically for areas within the City which may presently be used for agriculture but will be converted to urban use in the future.

Subd. 2. Permitted Use

- (1) Agricultural buildings and uses as regulated by Section 515.81.
- (2) Single family non-farm dwellings.
- (3) Home occupations as regulated by Section 515.83.
- (4) Forest and Game management areas.
- (5) Public Recreation areas.
- (6) Cemeteries.

Subd. 3. Accessory Uses

- (1) Open off-street parking space not to exceed three spaces per dwelling unit.
- (2) Garages for private use.
- (3) Fences.
- (4) Recreation equipment for private use.
- (5) Solar Energy Systems and Solar Structures.

Subd. 4. Conditional Uses

- (1) Regional pipelines, power transmission lines and relay towers.

- (2) Public and private schools.
- (3) Churches and church related buildings.
- (4) Home extended businesses.
- (5) Planned Unit Development.
- (6) Hospitals.
- (7) Day Care Facility operated in a church or in public or private schools.
- (8) The provisions of two (2) lodging rooms with a maximum of four (4) lodgers per dwelling or the provisions of table board in a dwelling, which is owner occupied.
- (9) Placement and Operation of Outdoor Wood Burning Furnaces subject to provisions of Section 515.07 Subd. 21.
- (10) Bed and Breakfast subject to provisions of Section 515.94.

Subd. 5. Minimum Lot Requirements and Setbacks

Lot size	20,000 sq. ft.
Lot width	100 ft.
Front Yard Setback	35 ft.
Rear Yard Setback	
Non-agricultural buildings	35 ft.
Livestock buildings	100 ft.
Accessory buildings	8 ft.
Side Yard	
Agricultural buildings	100 ft.
Non-agricultural buildings	The lesser of 10% of lot width or 20 ft.
Non-agricultural buildings, corner, street side	30 ft.
Maximum height	35 ft., except agricultural structures such as silos, etc.
Minimum floor area per dwelling unit	960 sq. ft.
Minimum width/length of dwelling unit	22 ft.

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

SECTION 515.17 SUBURBAN RESIDENTIAL DISTRICT (R-1)

Subd. 1. Purpose

This district is established to allow areas within the City of predominantly 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 and convenient to residents of such districts.

Subd. 2. Permitted Uses

- (1) One-family detached dwellings.
- (2) Public recreation.
- (3) State licensed Residential Facility serving six (6) or fewer persons.
- (4) Home occupations as regulated by Section 515.83.
- (5) A lot of record or parcel of land existing on or before February 6, 1984 shall meet the minimum area and setback requirement for this district except modified as follows:
Lot area 6,000 square feet; lot width 50 feet.
A lot of record or parcel of land existing on or before February 6, 1984 shall be allowed to be subdivided to create a buildable lot if all lots being created meet the minimum area and setback requirement for this district except modified as follows:
Lot area 7,000 square feet; lot width 50 feet.

Subd. 3. Accessory Uses

- (1) Open off-street parking spaces on the same continuous parcel, without intervening streets.
- (2) Garages and open off-street parking for private residential use.
- (3) Fences.
- (4) Gardening and other horticultural uses where no sale of products is conducted on the site.
- (5) Decorative landscape features such as statues, rocks, reflecting ponds and benches.
- (6) Recreation equipment for private use.
- (7) Solar systems and structures.

Subd. 4. Conditional Uses

- (1) Planned Unit Development.
- (2) Churches and church related buildings.
- (3) Home Extended Businesses.

- (4) Cemeteries.
- (5) Public and private schools.
- (6) Hospitals.
- (7) Public buildings on public land.
- (8) Bed and Breakfast subject to provisions of Section 515.94.
- (9) Off-premise surface parking lots and parking ramps that are accessory to a permitted or conditional use as indicated in Subds. 2 and 4 of this Ordinance, according to the regulations set forth in Section 515.73 of the Brainerd City Code.
- (10) Placement and operation of outdoor wood burning furnaces subject to provisions of Section 515.07 Subd. 21.
- (11) 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:
 - a. Providing one off-street parking space for each 300 sf of office space.
 - b. No individual exterior entrances.
 - c. Business hours are limited from 7:00 a.m. to 9:00 p.m.
 - d. No exterior business signs.

Subd. 5. Minimum Lot Size Requirements and Setbacks

Lot Size	10,000 sq. ft.
Lot Width	75 ft.
Front Yard Setback	30 ft.
Rear Yard Setback	35 ft.
Side Yard, internal lot	10% of lot width
Side Yard, corner lot, street side	20 ft.
Minimum Floor Area per dwelling unit	750 ft.
Minimum width/length of dwelling unit	22 ft.

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

Dwellings exceeding thirty (30) feet in height, measured from the highest natural ground elevation in contact with the structure, shall require five (5) additional feet to the required minimum side yard for each additional ten (10) feet of height. Structures over 45 feet in height shall require a conditional use permit.

A lot of record or parcel of land existing on or before February 6, 1984 shall meet

the minimum area and setback requirement for this district except modified as follows: Lot area 6,000 square feet; lot width 50 feet.

A lot of record or parcel of land existing on or before February 6, 1984 shall be allowed to be subdivided to create a buildable lot if all lots being created meet the minimum area and setback requirement for this district except modified as follows: Lot area 7,000 square feet; lot width 50 feet.

SECTION 515.19 URBAN RESIDENTIAL DISTRICT (R-2)

Subd. 1. Purpose

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 both compatible with and convenient to residents of such a district.

Subd. 2. Permitted Uses

- (1) One- and Two-Family Dwellings.
- (2) Public Recreation.
- (3) Churches and Church related buildings.
- (4) State licensed Residential Facility serving six (6) or fewer persons.
- (5) Home occupations as regulated by Section 515.83.

Subd. 3. Accessory Uses

- (1) Open off-street parking spaces on the same continuous parcel, without intervening streets.
- (2) Garages and open off-street parking for private residential use.
- (3) Fences.
- (4) Gardening and other horticultural uses where no sale of products is conducted on the site.
- (5) Decorative landscape features such as statues, rocks, reflecting ponds and

benches.

- (6) Recreation equipment for private use.
- (7) Solar systems and structures.
- (8) Off-street parking subject to provisions in Section 515.17 Subd. 3(1).

Subd. 4. Conditional Uses

- (1) Any use permitted as a Conditional Use in the R-1 District Section 515.17 Subd. 4.
- (2) Townhouses not exceeding six (6) units per building.
- (3) Conditional Uses: Allow non-conforming uses to operate as a conforming use and have all right thereto as amended by the City Council in their appropriate zone as its existing use at the time of CUP, until such time it is closed for operation more than 12 consecutive months.
 - a. To apply, the property must be in continuous operation prior to 1900 A.D. and show proof of historic significance to the City.
 - b. The business must operate in a manner that does not disturb traffic flows and air quality.
 - c. The duration of a CUP is specifically limited to the period of time the property is operated as the same use.
 - d. Any building may be located within the side, front, and rear yard setback, but in no case shall the setback be less than four feet.
- (4) Off-premise surface parking lots and parking ramps subject to provisions of Section 515.17 Subd. 4 and Section 515.73.
- (5) Placement and operation of outdoor wood burning furnaces subject to provisions of Section 515.07 Subd. 21.
- (6) Bed and Breakfast subject to provisions of Section 515.94.
- (7) 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:
 - a. Providing one off-street parking space for each 300 sf of office space.
 - b. No individual exterior entrances.
 - c. Business hours are limited from 7:00 a.m. to 9:00 p.m.

- d. No exterior business signs.

Subd. 5. Minimum Lot Requirements and Setbacks

	<u>Townhouses</u>	<u>One-Family Dwelling</u>	<u>Two-Family Dwelling</u>
Lot Size (per unit)	7,000 sq. ft.	3,500 sq. ft.	3,500 sq. ft.
Lot Width (per unit)	50 ft.	25 ft.	25 ft.
Front Yard Setback	30 ft.	30 ft.	30 ft.
Rear Yard Setback	25 ft.	25 ft.	25 ft.
Side Yard, internal lot	10% of width	10% of width	10% of width
Side Yard, corner lot	20 ft.	20 ft.	20 ft.
Minimum Floor Area per dwelling unit	750 sq. ft.	750 sq. ft.	750 sq. ft.
Minimum width/length of dwelling unit	22 ft.	22 ft.	22 ft.

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

Dwellings exceeding thirty (30) feet in height, measured from the highest natural ground elevation in contact with the structure, shall require five (5) additional feet to the required minimum side yard for each additional ten (10) feet of height. Structures over 45 feet in height shall require a Conditional Use Permit.

Subd. 7 Minimum Lot Area Pertaining to Senior and/or Physically Handicapped Housing

Minimum lot area per dwelling unit for Senior and/or Physically Handicapped Housing 1,100 sq. ft.

SECTION 515.21 MULTIPLE FAMILY RESIDENTIAL DISTRICT (R-3)

Subd. 1. Purpose

This district is established to allow and preserve residential areas in the City ranging from medium to high-density (8 to 20 units per acre) contingent upon the availability of adequate

roads, utilities and appropriate adjacent land uses.

Subd. 2. Permitted Uses

- (1) Multiple Family Dwellings – Apartments.
- (2) Townhouses.
- (3) Any use listed as a Permitted Use in the R-2 District Section 515.19 Subd. 2.

Subd. 3. Accessory Uses

- (1) Any use permitted as an Accessory Use in the R-2 District Section 515.19 Subd. 3.
- (2) Recreational rooms.
- (3) Rental offices.
- (4) Off-street parking – Subject to provisions of Section 515.17 Subd. 3.

Subd. 4. Conditional Uses

- (1) Nursing and Retirement Home Facilities.
- (2) Rooming and Boarding Houses.
- (3) Any use permitted as a Conditional Use in the R-2 District Section 515.19 Subd. 4.
- (4) Tea/Coffee House subject to provisions of Section 515.92.
- (5) Placement and Operation of Outdoor Wood Burning Furnaces subject to provisions of Section 515.07 Subd. 21.
- (6) Bed and Breakfast subject to provisions of Section 515.94.
- (7) State licensed Residential Facilities serving seven (7) to sixteen (16) persons.
- (8) 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:
 - a. Providing one off-street parking space for each 300 sf of office space.
 - b. No individual exterior entrances.
 - c. Business hours are limited from 7:00 a.m. to 9:00 p.m.

d. Exterior business signs.

Subd. 5. Density Requirements

A maximum density of twenty (20) units per acre.

Subd. 6. Minimum Lot Requirements and Setbacks for All Uses Excluding Apartments

Requirements shall conform to those set forth in the R-2 District Section 515.19 Subd. 5.

Subd. 7. Minimum Lot Requirements and Setbacks for Multiple Family Dwelling-Apartments

Minimum Lot Area per dwelling unit	2,200 sq. ft.
Minimum Lot Area per dwelling unit for Senior and/or Physically Handicapped Housing	1,100 sq. ft.
Minimum Lot Width	100 ft.
Front Yard Setback	30 ft.
Side Yard, Internal lot	10% of width
Side Yard, Corner lot	20 ft.
Rear Yard, Setback	25 ft.

Dwellings over thirty (30) feet in height, measured from the highest natural ground elevation in contact with the structure, shall require five (5) additional feet to the required minimum side yard for each additional ten (10) feet of height.

Subd. 8. Minimum Floor Area per Dwelling Unit

Efficiency	400 sq. ft.
1 bedroom	500 sq. ft.
2 bedroom	650 sq. ft.

For each additional bedroom after two, 650 square feet plus 100 square feet per bedroom in excess of two.

SECTION 515.23 MANUFACTURED HOUSING DISTRICT (R-4)

Subd. 1. Purpose

The purpose of this district is to provide for a variety of forms of housing in attractive residential neighborhoods.

Subd. 2. Permitted Uses

- (1) One-family detached dwellings.
- (2) Public recreation.

- (3) Personal services such as laundry, barber, shoe repair shop and other similar uses provided no retail sales of merchandise other than that which is incidental to the principal use.

Subd. 3. Accessory Uses

- (1) Any use permitted as an Accessory Use in the R-1 District Section 515.15 Subd. 3.
- (2) Single Family Dwellings.

Subd. 4. Conditional Uses

- (1) Public and private schools.
- (2) Planned Unit Development.
- (3) Community Service buildings housing laundry, sanitation.
- (4) Recreation and/or office facilities serving the housing development.
- (5) Churches and church related buildings.
- (6) Day Care Facilities.
- (7) Placement and operation of outdoor wood burning furnaces subject to provisions of Section 515.07 Subd. 21.
- (8) Bed and Breakfast subject to provisions of Section 515.94.
- (9) Public schools, churches and church-related buildings except in the B-3 Central Business District.

Subd. 5. Minimum Lot Requirements and Setbacks

Lot Size	5,000 sq. ft.
Lot Width	50 ft.
Front Yard Setback	20 ft.
Rear Yard Setback	25 ft.
Side Yard Setback	10% of lot width
Maximum Height	30 ft.
Maximum Lot Coverage by Building	30%

All dwellings not located on a permanent foundation shall be equipped with an anchoring and support system as defined and approved by the Minnesota Department of Administration Building Code Division rules for mobile home support and tie-down systems, authorized by Minnesota Statutes Section 327.31 to 327.34. Where the support system requires skirting, the materials used shall be metal and finished in a color compatible with that of the dwelling.

SECTION 515.25 LIMITED BUSINESS DISTRICT (B-1)

Subd. 1. Purpose

This district allows local service and office space uses serving nearby populations. The district includes uses that will not disrupt nearby, low-density land uses through high traffic generation, noise, or other nuisances.

Subd. 2. Permitted Uses

- (1) Public Office Buildings.
- (2) Professional services such as medical/dental clinics, attorneys, architects, engineers, surveyors and accountant's offices.
- (3) Offices of a general nature including but not limited to finance, real estate, and insurance services. Employment within the building shall not exceed 50 persons. The use shall not include retail sales or warehousing.
- (4) Public colleges and universities.
- (5) Transient merchants and transient produce merchants.
- (6) Tattoo Operations.
- (7) Small print shops.

Subd. 3. Accessory Uses

- (1) Private garages, off-street parking and load spaces as regulated in this ordinance.
- (2) Signs as regulated in this ordinance. Decorative landscape features.
- (3) Single family dwellings.

Subd. 4. Conditional Uses

- (1) Nursing and retirement home facilities.
- (2) Funeral homes and mortuaries.
- (3) Public schools, churches and church-related buildings except in the B-3 Central Business District.
- (4) Art studio, interior decorating studio, photographic studio, or music studio, provided no retail sales are made of products not manufactured on the site.

- (5) Radio and television studios and towers.
- (6) Private, not-for-profit clubs and lodges.
- (7) Assembly.
- (8) Historical buildings, museums, art institutes, galleries and playhouses.
- (9) Multiple Family Dwellings subject to the requirements of Section 515.21.
- (10) A retail drug store when conducted entirely within a professional building used exclusively for medical services.
- (11) A lot of record or parcel of land existing on or before the effective date of this Ordinance shall meet the following minimum area and setback requirements for this district: lot area -7000 square feet; lot width - 50 feet.
- (12) Day Care Facilities.
- (13) Limited retail sales within a structure listed in the State or National Register of Historic Places.
- (14) Bed and Breakfast – Subject to Provision of 515.94.
- (15) Placement and operation of outdoor wood burning furnaces – Subject to provisions of Section 515.07 Subd. 21.
- (16) Coffee Shops – subject to provisions of Section 515.92.

Subd. 5. Minimum Lot Requirements and Setbacks

Lot Area	10,000 sq. ft.
Lot Width	75 ft.
Front Yard Setback	20 ft.
Side Yard Setback, internal lot	10% of width
Side Yard Setback, corner lot	20 ft.
Rear Yard Setback	25 ft.
Setback from adjacent residential zoning	30 ft.

Height Requirement	Any structure exceeding 3 stories or 45 feet shall be setback from adjacent property lines a distance equal to one-half of the building height
--------------------	--

SECTION 515.27 NEIGHBORHOOD BUSINESS DISTRICT (B-2)

Subd. 1. Purpose

The purpose of this district is to allow commercial uses complementary and adjacent to residential uses and also allow for expansion of the Central Business District (CBD). The primary emphasis in this district will be local retail facilities such as grocery and convenience stores.

Subd. 2. Permitted Uses

Commercial establishments offering merchandise or services to the general public in return for compensation. Such establishments to include but not be limited to the following:

- (1) Retail establishments such as groceries, hardware, drug, clothing and furniture stores, and restaurants.
- (2) Personal services such as laundry, barber, shoe repair shop and photography studios.
- (3) Professional services such as medical and dental clinics, architects and attorneys offices.
- (4) Repair services such as jewelry and radio and television repair shops.
- (5) Finance, insurance and real estate services.
- (6) Public and Semi-public Buildings such as post office and fire station.
- (7) Any use listed as a permitted use in the B-1 District as regulated by Section 515.25 Subd. 2.
- (8) Transient merchants and transient produce merchants.
- (9) Small Print Shop.

Subd. 3. Accessory Uses

- (1) Uses incidental to the principal uses such as off-street parking and loading and unloading areas, storage of merchandise.
- (2) Signs shall be subject to sign regulations.
- (3) Single-family dwellings.

Subd. 4. Conditional Uses

- (1) Any use permitted as a conditional use in the B-1 District as regulated by Section 515.25 Subd. 4.
- (2) Theaters, but not drive-in theaters.

- (5) Medium and large print shops and publishing operations.
- (6) Tattoo Operations.
- (7) Adult Use as regulated by Section 515.93.

Subd. 3. Accessory Uses

- (1) Uses incidental to the principal uses such as off-street parking and loading and unloading areas and storage of merchandise.
- (2) Signs shall be subject to sign regulations.
- (3) Single family dwellings.

Subd. 4. Conditional Uses

- (1) Any use permitted as a conditional use in the B-2 District as regulated by Section 515.27 Subd. 4.
- (2) Vehicle sales and service.
- (3) Light Manufacturing.
- (4) Single Family Dwellings.
- (5) Placement and operation of outdoor wood burning furnaces – Subject to provisions of Section 515.07 Subd. 21.

Subd. 5. Minimum Lot Requirements and Setbacks

Minimum lot area, width, setback, and height requirements not applicable. A 30 foot setback shall be required for buildings located adjacent to residentially zoned property.

SECTION 515.31 GENERAL BUSINESS DISTRICT (B-4)

Subd. 1. Purpose

The purpose of the General Business District is to allow more intensive commercial uses that require extensive highway access for customer contact.

Subd. 2. Permitted Uses

- (1) Any use permitted in the B-3 District as regulated by Section 515.29 Subd. 2.
- (2) Vehicle and boat sales.
- (3) Lumber yards and construction material sales.

- (4) Garden and landscaping sales and supplies.
- (5) Medium and large print shops and publishing operations.
- (6) Farm implement sales.
- (7) Wholesaling and warehousing operations.
- (8) Auto/truck service stations as regulated by Section 515.77.
- (9) Guard/Reserve Facilities.
- (10) 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:
 - a. The retail sales area shall be segregated from the principal use of the building.
 - b. The retail sales area shall not exceed 10% of the gross floor area of the building.
- (11) Automobile Body Shop subject, however to the following conditions:
 - a. All outdoor storage of vehicles shall be screened by at least a 6 foot fence, but not in excess of 8½ feet in height, and shall be 90 percent opaque fence.
 - b. Any vehicle parked or stored on the property for longer than 24 hours shall be kept in the screened yard.
 - c. All employee and customer parking areas shall be on a paved surface.
 - d. No outdoor display of merchandise is permitted.
 - e. No outdoor sales of merchandise is permitted.
- (12) Adult Use as regulated by Section 515.93

Subd. 3. Conditional Uses

- (1) Any use permitted as a Conditional Use in the B-3 District as regulated by Section 515.29 Subd. 4.
- (2) Armories, convention halls, sport arenas and stadiums.
- (3) Bowling alleys, billiard and pool rooms, drive-in theaters, skating rinks, dance halls, gymnasiums, Y.M.C.A., Y.W.C.A., and similar uses.

- (4) Bus terminals.
- (5) Business or trade school when conducted entirely within a building.
- (6) Drive-in business as regulated by Section 515.79.
- (7) Electrical service, heating, plumbing, appliances, upholstery, or air conditioning service shops.
- (8) Stone and monument sales.
- (9) Animal hospital or clinic and kennels.
- (10) Trailer and manufactured home sales.
- (11) Accessory uses other than those listed as permitted.
- (12) State licensed Residential Facilities serving up to sixteen (16) persons.
- (13) 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.

Subd. 4. Accessory Uses

- (1) Uses incidental to the principal uses such as off-street parking and loading and unloading areas and storage of merchandise.
- (2) Signs shall be subject to sign regulations.
- (3) Single family dwellings.

Subd. 5. Minimum Lot Requirements and Setbacks

Minimum lot area, width, and height requirements not applicable unless specific standards appear under separate sections of the Ordinance. A 30 foot setback shall be required for buildings located adjacent to residentially zoned property.

SECTION 515.33 LIGHT INDUSTRY DISTRICT (I-1)

Subd. 1. Purpose

This district is established to allow and preserve areas for the development of industrial parks.

Subd. 2. Permitted Uses

- (1) 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
- (2) Machine shops
- (3) Paper products from previously processed paper. Radio and television studios and towers
- (4) Research laboratories
- (5) Electronics assembly and testing
- (6) Drive-in business as regulated by Section 515.79
- (7) Warehousing and wholesaling
- (8) Advertising signs (billboards)
- (9) Guard/Reserve Facilities
- (10) 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:
 - a. The retail sales area shall be segregated from the principal use of the building
 - b. The retail sales area shall not exceed 10% of the gross floor area of the building
- (11) Automobile Body Shop and Transmission Repair subject, however to the following conditions:
 - a. All outdoor storage of vehicles shall be screened by at least a 6 foot fence, but not in excess of 8 ½ feet in height, and shall be 90 percent opaque fence
 - b. Any vehicle parked or stored on the property for longer than 24 hours shall be kept in the screened yard
 - c. No outdoor display of merchandise is permitted
 - d. No outdoor sales of merchandise is permitted

Subd. 3. Accessory Uses

- (1) Off-street parking and loading as regulated in this Ordinance
- (2) Signs as regulated in this Ordinance
- (3) Residence for night watchman or other security personnel

Subd. 4. Conditional Uses

- (1) Trucking and freight terminals
- (2) Open sales lot, provided that all open storage be screened by a fence or compact evergreen hedge at least 50 percent opaque at least 6 feet high
- (3) Any accessory structures or uses other than those listed as permitted
- (4) Bulk liquid storage
- (5) Offices of a general nature and the operations do not include retail sales or warehousing from the site.
- (6) Planned Unit Developments
- (7) Placement and operation of outdoor wood burning furnaces – Subject to provisions of Section 515.07 Subd. 21

Subd. 5. Minimum Lot Requirements and Setbacks

Lot Area	24,000 sq. ft.
Lot Width	100 ft.
Front Yard Setback	40 ft.
Side Yard Setback, internal lot	10% of lot width
Side Yard Setback, corner lot	20 ft.
Setback from adjacent residential zoning	100 ft.
Rear Yard Setback	30 ft.
Height Requirement	Every structure shall be setback one additional foot from adjacent property lines for every foot over 30 feet of height

SECTION 515.35 GENERAL INDUSTRY DISTRICT (I-2)

Subd. 1. Purpose

The purpose of the General Industry areas with the full complement of urban services necessary to support intense manufacturing and processing operations.

Subd. 2. Permitted Uses

- (1) Any use permitted in the I-1 District as regulated herein
- (2) The manufacturing, compounding, assembly, packaging, treatment or storage of the following products or materials not likely to meet the performance standards outlined in this Ordinance
- (3) 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
- (4) Crude oil, gasoline, liquid fertilizer or other liquid storage tanks
- (5) Adult Establishments as regulated by Section 515.93

Subd. 3. Accessory Uses

Any use permitted as accessory in the I-1 District as regulated herein

Subd. 4. Conditional Uses

- (1) Coal, tar, creosote or asphalt processing or distillation
- (2) Acid manufacture
- (3) 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
- (4) Auto wrecking or salvage yard, junk yard, used auto parts, and similar uses, provided that the use is screened by a fence or compact evergreen hedge which is at least 50 percent opaque and at least 6 feet high
- (5) Incineration or reduction of waste material other than customarily incidental to a principal use
- (6) Kilns or other heat processes fired by means other than electricity
- (7) Any use permitted as a Conditional Use in the I-1 District as regulated by Section 515.33 Subd. 4
- (8) Commercial stockyards and slaughtering of animals
- (9) Placement and operations of outdoor wood burning furnaces – Subject to provisions of Section 515.07 Subd. 21

Subd. 5. Minimum Lot Requirements and Setbacks

Lot Area	24,000 sq. ft.
Lot Width	150 ft.
Front Yard Setback	40 ft.
Side Yard Setback, internal lot	10% of lot width
Side Yard Setback, corner lot	20 ft.
Rear Yard Setback	30 ft.
Setback from adjacent residential zoning	100 ft.
Height Requirements	None

SECTION 515.37 FLOOD PLAIN DISTRICTS

Subd. 1. Purpose

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 Sections 515.37 through 515.39 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.

Subd. 2. General Provisions

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

Subd. 3. Establishment of Zoning Districts

The flood plain areas within the jurisdiction of this ordinance are hereby divided into two Districts: Floodway District (FW) and Flood Fringe District (FF).

Subd. 4. Subdivisions

- (1) 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 flood plain 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 feet below the Regulatory Flood Protection Elevation.
- (2) For all subdivisions in the flood plain, 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.
- (3) In General Flood Plain 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.
- (4) 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.

Subd. 5. Utilities, Railroads, Roads and Bridges

- (1) Public Utilities - All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to at or above the Regulatory Flood Protection Elevation.
- (2) Public Transportation Facilities - Roads, railroad tracks and bridges within the Flood Plain shall comply with Sections 515.37 and 515.39
 - a. Bridges, culverts, and approach fills shall comply with provisions of Minnesota Regulations 6 MCAR 1.5025.
 - b. 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.

- (3) 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.

Subd. 6. Flood Plain Permit

- (1) A Flood Plain 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 nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
- (2) 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.
- (3) 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.
- (4) 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 flood plain districts. The Zoning Administrator shall also maintain a record of the elevation to which structures and or alterations, additions to structures are flood-proofed.
- (5) 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 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.
- (6) 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 \$25 for \$100

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.

Subd. 7. Nonconforming Uses

Nonconforming uses shall meet the requirements of Section 515.09, Subd. 7 as modified below:

- (1) Structural alterations, which substantially reduce potential flood damages for the entire structure.
- (2) Nonstructural flood proofing.

Subd. 8. Amendments

All amendments to the Flood Plain 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 require prior approval by the Federal Insurance Administration.

Subd. 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 South 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 515.39 FLOODWAY DISTRICT (FW)

Subd. 1. Purpose

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.

Subd. 2. Permitted Uses

- (1) Agricultural uses such as general farming, pasture, outdoor plant nurseries, horticulture, forestry, sod farming, and wild crop harvesting.
- (2) Industrial-Commercial uses such as parking areas, loading areas and airport landing strips.
- (3) Private and public recreational uses.
- (4) Residential uses such as lawns, gardens, parking areas, and play areas.

Subd. 2.5. Standards for Floodway Permitted Uses

- (1) The use shall have a low flood damage potential.
- (2) 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.

Subd. 3. Conditional Uses

In addition to the requirements specified as regulated by Section 515.09, Subd. 7 in Conditional Use Permits the above uses shall also meet the requirements of Section 515.91, Flood Plain Performance Standards.

- (1) Structures accessory to park and recreational uses.
- (2) Placement of fill.
- (3) Extraction of sand, gravel, and other materials.
- (4) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (5) Railroads, streets, bridges, utility transmissions lines, and pipelines.
- (6) Other uses similar in nature to uses described in Subd. 2 above.

- (7) Storage yards for equipment, machinery or materials.
- (8) 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 515.41 FLOOD FRINGE DISTRICT (FF)

Subd. 1. Purpose

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.

Subd. 2. Permitted Uses

- (1) Any use permitted in the Floodway district as regulated therein.

Subd. 3. Accessory Uses

Accessory structures and uses to the underlying district will be permitted provided:

- (1) Structures shall not be designated for human habitation.
- (2) Structures shall have a low flood damage potential.
- (3) 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.
- (4) 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.

Subd. 4. Conditional Uses

- (1) Any use permitted as a conditional use in the Floodway District.
- (2) 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 515.09, Subd. 7, Conditional Use Permit the above uses shall meet the requirements of Section 515.91, Flood Plain Performance

Standards.

SECTION 515.43 PLANNED UNIT DEVELOPMENT (PUD)

Subd. 1. Purpose

The purposes of this Section are:

- (1) 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.
- (2) To allow for a mixture of residential units in an integrated and well-planned area.
- (3) 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.
- (4) Facilitate the economical provision of streets and public utilities.
- (5) To decrease side yard requirements using zero-lot-line zoning thereby increasing the size of south lot area available for the use of solar energy systems by the landowner.
- (6) One off-street directional sign shall be permitted for the following: A church, school, hospital, sanitarium and library, subject to the following conditions:
 - a. The sign shall be located on private property which abuts a collector or arterial street leading to the subject use.
 - b. Directional sign shall not exceed 4 square feet of surface area and shall not be erected higher than 8 feet above grade.
 - c. Directional signs shall not be illuminated.
 - d. Directional signs shall be located and designed so as to not obstruct the vision of pedestrians or drivers of motor vehicles.

Subd. 2. Permitted Uses

Dwellings constructed as detached, clustered, semi-detached, attached or multi-storied

structures or any combination of the above uses are permitted in all residential zoning districts.

Permitted and conditional uses listed in Section 515.33 Light Industrial District (I-1) and Section 515.43 General Industry District (I-2).

Subd. 3. General Requirements

A conditional use permit shall be required of all planned unit developments. The City may approve the planned unit development only if it is found that the development satisfies all of the following standards:

- (1) 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:
 - a. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities, which serve or are proposed to serve the area.
 - b. The use is reasonably related to the overall needs of the City and is compatible with the surrounding land use.
 - c. The planned unit development is an effective and unified treatment of the development possibilities on the project site and the development plans provide for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.
 - d. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to surrounding uses.
- (2) The Planned Unit Development meets or exceeds the following development criteria:
 - a. A minimum of two (2) or more principal structures is proposed
 - b. The tract is at least two (2) acres in size
- (3) The use is consistent with the requirements of the Zoning Ordinance.
- (4) The Planned Unit Development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.
- (5) 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.

- (6) 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.
- (7) One (1) individual has been designated by the property owner(s) to be in control of the development.

Subd. 4. Residential Density

The maximum density of development of a Planned Unit Development (PUD) shall be as follows:

Low Density (R-1):	up to 5 units per acre
Medium Density (R-2, R-4):	up to 8 units per acre
High Density (R-3):	up to 20 units per acre

Subd. 5. Residential Density Transfer

- (1) In order to encourage the protection of natural resources, to allow limited development in an area with unusual building characteristics due to subsoil characteristics or to encourage creative land use, a density transfer system may be allowed whereby lot sizes smaller than that normally required in a district will be allowed on the developable land in return for leaving the natural resource areas open from development. The number of dwelling units proposed for the entire site shall not exceed the total number permitted under the density indicated 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.
- (2) The Zoning Administrator shall determine the number of dwelling units which may be constructed within the Planned Unit Development by dividing the gross acreage of the project area by the maximum allowable density as set forth in Subd. 4.

Subd. 6. Coordination with Subdivision Resolution Regulations

- (1) It is the intent of this Ordinance that subdivision review under the subdivision regulations be carried out simultaneously with the review of a planned development under this chapter of the Zoning Ordinance.
- (2) The plans required under this section must be submitted in a form which will satisfy the requirements of the Subdivision regulations for the Preliminary and Final Plats required under those regulations.

Subd. 7. Pre-Application Meeting

Prior to the submission of any plan to the Planning Commission, the applicant shall meet with the Zoning Administrator and, if necessary, with the Planning Commission 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. The applicant may submit a simple sketch plan at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance of the planning staff to facilitate the review of the preliminary development plan and Preliminary Plat.

Subd. 8. Preliminary Development Plan

- (1) An applicant shall make an application for a Conditional Use Permit following the procedural steps as set forth in Section 515.09 Subd.7 of the Zoning Ordinance.
- (2) Preliminary Development Plan Documentation - the following exhibits shall be submitted by the developer as part of the application for a Conditional Use Permits required by the Zoning Administrator and the Planning Commission.
 - a. An explanation of the character and need for the planned development and the manner in which it has been planned to take advantage of the planned development regulations.
 - b. A statement of proposed financing of the Planned Unit Development (PUD).
 - c. A statement of the present ownership of all the land included within the planned development and a list of property owners and addresses within three hundred fifty (350) feet of the outer boundaries of the property.
 - d. general indication of the expected schedule of development including sequential phasing and time schedules.
 - e. A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street rights-of-way, utilities, and buildings for the property, and for the area one hundred fifty (150) feet beyond.
 - f. Natural features map or maps of the property and area one hundred-fifty (150) feet beyond show contour lines at no more than two (2) foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition. Mapping resources are available from one City Engineer.
 - g. A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.
 - h. Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water system, streets and other public utilities.

- i. An engineering report presenting results of a soils review of the site. If in the opinion of the City, conditions warrant, soil borings of the site may also be required.
 - j. Any additional information requested by the Planning Commission and City Council that may be required for clarification of the proposed project.
- (3) Preliminary Plat - the applicant shall also submit a Preliminary Plat and all the necessary documentation as required under the Subdivision Regulations of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the conditional use permit and Preliminary Plat may be combined into one hearing or may be held concurrently.
- (4) Preliminary Development Plan Procedures
- a. The property owner or his agent shall meet with the Zoning Administrator to explain his situation, learn the procedures and obtain an application form.
 - b. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the City Council.
 - c. The Zoning Administrator shall review for conformity and transmit the application and required exhibits to the Planning Commission and shall notify all property owners within the affected zone and within three hundred fifty (350) feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
 - d. The Zoning Administrator shall set a date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ten (10) days and not more than thirty (30) days prior to said hearing.
 - e. The Planning Commission shall hold the public hearing and recommend and transmit to the City Council within thirty (30) days after the close of the public hearing, one (1) of three (3) actions - approval, denial, or conditional approval.
 - f. The City Council shall act upon the application within thirty (30) days after receiving the recommendation of the Planning Commission.

Subd. 9. Final Development Plan

- (1) Within sixty (60) days of City Council approval of the preliminary development plan and the Preliminary Plat, the applicant shall file with the Zoning Administrator a final development plan and the Final Plat for all or that portion to be platted. The final development plan and the Final Plat shall contain those changes as recommended by

the Planning Commission and approved by the City Council during the preliminary review process.

- (2) The Zoning Administrator shall submit the final development plan and the Final Plat to the Planning Commission for review.
- (3) The Planning Commission shall review the final development plan and Final Plat and make its recommendation to the City Council within sixty (60) days of receiving the final development plan and Final Plat.
- (4) The City Council shall review the final development plan and act on the Final Plat within sixty (60) days of receiving the recommendation of the Planning Commission. The City Council shall give notice and provide opportunity to be heard on the final development plan to any person who has indicated to the City Council in writing that he wishes to be notified.
- (5) If the final development plan is approved by the City Council, the Zoning Administrator shall issue a conditional use permit to the applicant. The Final Plat shall be submitted to the County Recorder's Office.
- (6) Once the final development plan and Final Plat have been approved, the City may issue the building permit for the area complying with the plan and other laws of the City without further hearings or review of the plan by the City Council.

Subd. 10. Enforcing Development Schedule

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, the Zoning Administrator shall review all of the building permits issued for the planned development and examine the construction that has taken place on the site. If he shall find 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, he shall forward this information 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.

Subd. 11. Conveyance and Maintenance of Common Open Space

- (1) All land shown on the final development plan as common open space must be conveyed under one of the following methods at the discretion of the City. **b**
 - a. It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which

have been placed on it.

b. It may be conveyed to a corporation, developer, homeowner association (incorporated or non-incorporated) or trustee provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the party involved subject to covenants approved by the City Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

(2) 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.

Subd. 12. Standards for Common Open Space

No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:

(1) The location, shape, size, and character of the common open space must be suitable for the planned development.

(2) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering the size, density, expected population, topography, and the number and type of dwellings to be provided.

(3) Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

Subd. 13. Planned Unit Development (PUD) Review and Amendments

(1) Annual Review

The Zoning Administrator and 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 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.

(2) Revision to the Planned Unit Development (PUD)

- a. Changes in the location, placement, and heights of buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the Final Plan was approved.
- b. Approval of the Planning Commission and City Council shall be required for other changes such as rearrangement of lots, blocks and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.

(3) Amendments to the Planned Unit Development (PUD)

Any amendments to the Planned Unit Development (PUD) shall require the same procedures as for the application for a conditional use permit as set forth in Section 515.09 of this Ordinance.

SECTION 515.45 PERFORMANCE STANDARDS

Subd. 1. Purpose

The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to the environment.

Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. An applicant or landowner shall supply data necessary to demonstrate such conformance. It may occasionally be necessary for an applicant to employ specialized consultants to demonstrate that a given use will not exceed the performance standards.

The performance standards shall apply to future development in all districts and to existing development within all compliance periods as noted in individual sections. Compliance may be waived by the City if a building condition created under prior ordinances physically precludes the reasonable application of the standards.

SECTION 515.47 SIGNS

Subd. 1. General Sign Standards

Signs are a permitted accessory use in all Districts, subject to the following regulations.

- (1) A sign is a structure or a part of a structure for purpose of applying yard and height regulations.

- (2) Except for traffic control and election signs, all signs are prohibited within the public right-of-way or easements except that the City Council may grant permission to locate signs and decorations on or within the right-of-way for a specified time not to exceed 90 days. Election signs shall be allowed from August 1 of an election year and shall be removed within 2 weeks following Election Day as required by paragraph (11) below, shall be no more than 12 square feet in size, 24 inches in height and shall be set back from street intersections at least 20 feet.
- (3) Signs and parts of the super-structure may extend in the Central Business District (B-3) into the required right-of-way a distance not in excess of 24 inches.
- (4) Illuminated signs shall not be permitted within the Residential ("R") Districts.
- (5) Illuminated flashing signs or devices giving off an intermittent or rotating beam consisting of a collection or concentration of rays of light shall not be permitted in any District except the Central Business District bounded as follows: on the North by the centerline of the Burlington Northern main tracks; on the East by the centerline of South Ninth Street; on the South by the centerline of Norwood Street; and on the West by the centerline of Fourth Street.
- (6) For the purposes of selling or leasing property in any district, a sign not in excess of 32 square feet per surface may be placed within the front yard of such property to be sold or leased.
- (7) Signs existing on the effective date of this Ordinance, which do not conform to the regulations set forth in this Ordinance, are a non-conforming use.
- (8) The area within the frame shall be used to calculate the square footage except that width of a frame exceeding 12 inches shall constitute advertising space, or should such letters or graphics be mounted directly on a wall or facial or in such a way as to be without a frame, the dimensions for calculating the square footage shall be the area extending 6 inches beyond the periphery formed around such letters or graphics in a plane figure, bound by straight lines connecting the outer most points thereof, and each surface utilized to display a message or to attract attention shall be measured as a separate sign.
- (9) Painted wall signs are permitted only in the B-3 Central Business District, B-4 General Business District, I-1 Light Industry District and 1-2 General Industry District subject to the following restrictions. No sign shall contain any indecent or offensive picture or written material.
- (10) The source of light for any illuminated sign shall not be directed into any street or adjacent property.
- (11) Election signs are permitted in all districts; however, they shall be removed within 2 weeks following Election Day.
- (12) Signs located in parking areas necessary for orderly operation of traffic movement

shall be permitted in addition to others permitted in this ordinance.

- (13) The fee owner shall cause the removal of painted wall signs within six (6) months and other sign types within ninety (90) days following discontinuance of the business for which the sign advertises.
- (14) One off-site directional sign shall be permitted for the following: A church, school, hospital, sanitarium and library, subject to the following conditions:
 - (a) The sign shall be located on private property that abuts a collector or arterial street leading to the subject use.
 - (b) Directional sign shall not exceed four (4) square feet of surface area and shall not be erected higher than eight (8) feet above grade.
 - (c) Directional signs shall not be illuminated.
 - (d) Directional signs shall be located and designed so as to not obstruct the vision of pedestrians or drivers of motor vehicles.
- (15) Temporary signs shall be located on the property for which it is intended to advertise and a 10 foot setback shall be established when the adjacent road is abutting the property line. Such signs shall not be erected without a permit and shall be limited to 30 days per permit. A maximum of 3 permits will be issued to an individual in 1 calendar year.

Subd. 2. Signs in Residential Districts

- (1) Within the Residential Districts the following signs are permitted: One nameplate sign for each dwelling and such sign shall not exceed one square foot in area per surface, and no sign shall be so constructed as to have more than 2 surfaces for advertising purpose.
- (2) One nameplate sign for each dwelling group of 3 or more units, and such sign shall not exceed 3 square feet in area per surface and no sign shall be so constructed as to have more than 2 surfaces for advertising purpose.
- (3) One nameplate sign for each permitted use or use by conditional permit other than residential and such sign shall not exceed 12 square feet in area per surface.
- (4) Symbols, statues, sculptures, and integrated architectural features on non-residential buildings may be illuminated by flood lights provided the direct source of light is not visible from the public right-of-way or adjacent residential district.
- (5) One identification sign, not to exceed twenty-five (25) square feet in area, for the following uses: church, school, hospital, sanitarium, club, library, governmental or similar uses. Such signs shall be solely for the purpose of displaying the name of the institution and its activities or services. Such sign may be illuminated.

Subd. 3. Signs in the Central Business District (B-3)

Within the Central Business District (B-3), nameplate signs and business signs are permitted subject to the following regulations.

- (1) The aggregate square footage of sign space per lot shall not exceed the sum of three square feet for each front foot of building plus one square foot for each foot of building siding on a street. The aggregate square footage of sign space for each floor above the first floor shall not exceed one square foot per front foot.

Subd. 4. Signs in the Limited Business (B-1), Neighborhood Business (B-2) and General Business (B-4)

Nameplate and business signs are permitted in the B-1, B-2 and B-4 Districts subject to the following:

- (1) The aggregate square footage of sign space per lot shall not exceed the sum of three square feet per front foot of building, plus one square foot for each foot of building siding on a street, plus one square foot for each front foot of lot not occupied by such building siding on a street, plus one square foot for each front foot of lot not occupied by such building which fronts on a public right-of-way 50 feet or more in width, plus four square feet for such buildings where the front entrance thereto is 100 feet or more from a public street. The least width of a lot for purposes of this ordinance shall be the front.

Subd. 5. Signs in the Industrial Districts

Within the "I" Use Districts, nameplate signs, business signs and advertising signs shall be permitted subject to the following regulations: The aggregate square footage of sign space per lot shall not exceed the sum of 4 square feet per front foot of building, plus one square foot per front foot of property not occupied by a building. No individual sign surface shall exceed 250 square feet except advertising signs. Advertising signs and billboards may be permitted in the AID use Districts, subject to the regulations for billboard signs set forth in the City Code.

SECTION 515.49 EXTERIOR STORAGE

In residential districts, all materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following in good order: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks and firewood. Existing uses shall comply with this provision within twelve (12) months following enactment of this Ordinance.

In all Districts, the City may require a conditional use permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a nuisance.

SECTION 515.51 REFUSE

In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes, with the exception of crop residue. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six (6) months following enactment of this Ordinance.

SECTION 515.53 TOXIC OR NOXIOUS MATTER

Any use shall be so operated so as not to discharge across the boundaries of the lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located, toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property, business, or the environment. Existing uses shall comply with this provision within six (6) months following enactment of this Ordinance.

SECTION 515.55 AIR POLLUTION

Any use shall be operated so as to control the emission of smoke or particulate matter to the degree that it is not detrimental to, or shall not endanger the public health, safety, comfort or general welfare of the public. For the purpose of this Ordinance, the regulations and standards adopted by the Minnesota pollution Control Agency shall be employed.

SECTION 515.57 MISCELLANEOUS NUISANCES

Unused refrigerators, or similar containers with doors that fasten automatically when closed shall not be exposed or accessible to the public without removing the doors, lids, hinges, or latches. As an alternative means of preventing public access to such nuisances, locks, may be installed. Existing uses shall comply with this provision within six (6) months following enactment of this Ordinance.

SECTION 515.59 SCREENING

Screening shall be required in residential zones where (a) any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential zone, and/or (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.

Where any business or industry (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screen shall also be provided where a business, parking lot, or industry is located across the street from a residential zone, but not on that

side of a business or industry considered to be the front.

Except in the General Industry District (I-2), all exterior storage shall be screened. The exceptions are: (1) merchandise being displayed for sale, (2) materials and equipment presently being used for construction on the premises.

All existing areas shall be required to conform within one (1) year after the enactment of this Ordinance. The screening required in this section may consist of a fence, trees, shrubs, and berms, but shall not extend within twenty (20) feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, twenty (20) feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the City Council may also be required in addition lieu of fencing.

SECTION 515.61 FENCING

For purposes of this Ordinance, a fence is defined as any partition, structure, wall or gate erected within the required yard.

All boundary line fences shall be entirely located upon the property of the person, firm or corporation constructing, or causing the construction, of such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.

Fences shall not exceed six (6) feet in height in residential districts or eight and one-half (8 1/2) feet in height in commercial-industrial districts. Fences higher than these shall require a Conditional Use Permit. Existing uses shall comply with this provision within one (1) year following enactment of this Ordinance.

SECTION 515.63 GLARE

In all districts, any artificial lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential zone and from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights that cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights that cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from said property. Existing uses shall comply with this provision within one (1) year following enactment of this Ordinance.

SECTION 515.65 BULK STORAGE (LIQUID)

All uses associated with the bulk storage of oil: gasoline, liquid fertilizer, chemicals, and

similar liquids shall required conditional use permit in order that the City Council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). All existing, above ground liquid storage tanks having a capacity in excess of 270 gallons shall have a conditional use permit within one (1) year following enactment of this Ordinance. The City Council may require the development of diking around said tanks. The City Council may require pressure testing of storage tanks on a periodic basis. The operation of any existing storage tank that, in the opinion of the City Council constitutes a hazard to the public safety shall be discontinued within five (5) years following enactment of this Ordinance or a shorter period if so determined by the City Council.

SECTION 515.67 NOISE

It shall be unlawful to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless such noise be reasonably necessary to the preservation of life, health, safety or property.

Measurement of Noise. Any activity not expressly exempted by this section which creates or produces sound regardless of frequency exceeding the ambient noise levels at the property line of any property (or if a condominium or apartment house within any adjoining apartment) by more than six (6) decibels above the ambient noise levels as designated in the Noise Pollution Control Regulations (NPCR) of the State of Minnesota, shall be deemed to be a violation of the Ordinance.

Sounds emanating from the operation of (1) motor vehicles on a public highway; (2) aircraft; (3) outdoor implements such as power lawn mowers, snow blowers, power hedge clippers, and power saws; and (4) pile drivers or jackhammers and other construction equipment are exempt from the provisions of this section. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places wherein athletic contests take place are exempt from the provisions of this Ordinance.

SECTION 515.69 DWELLING UNITS PROHIBITED

No garage, tent, trailer, recreational vehicle, basement home or accessory building shall at any time be used as a residence. Existing uses shall comply with this provision within six (6) months following enactment of this Ordinance.

SECTION 515.71 VACATED STREETS

Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

SECTION 515.73 PARKING

Subd. 1. Surfacing and Drainage

Off-street parking and loading areas shall be improved with a bituminous or equally durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the area, subject to the approval of the City Engineer.

These requirements shall also apply to open sales lots for cars, truck, and other equipment.

Subd. 2. Location

All accessory off-street parking facilities required herein shall be located as follows:

- (1) Spaces accessory to one and two family dwellings on the same lot as the principal use served, and shall not occupy a required front yard.
- (2) Spaces accessory to multiple family dwellings on the same lot as the principal use served or within four hundred (400) feet of the main entrance to the principal building served.
- (3) Spaces accessory to uses located in a business or industrial district; within 800 feet of a main entrance to the principal building served.
- (4) There shall be no off-street parking space within 3 feet of any street right-of-way.
- (5) No off-street parking area containing more than four (4) parking spaces shall be located closer than five (5) feet from an adjacent lot zoned or used for residential purposes. Said parking must be screened by a screen fence not less than four and one-half (4 1/2) feet high nor less than 90 percent opaque with design subject to review by the Zoning Administrator.
- (6) Uses located within the Central Business District are exempt from all off-street parking and loading requirements.

Subd. 3. General Provisions

- (1) Access drives may be placed adjacent to property lines.
- (2) Control of off-site parking facilities. When required, accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the City Council requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.
- (3) Use of parking area. Required off-street parking space in any District shall not be

utilized for open storage of goods or for the storage of vehicles that are inoperable or for sale or rent.

- (4) Parking shall not be allowed in areas that are not designed for off-street parking.
- (5) Off-street parking spaces shall not be reduced in number unless said number exceed the requirement set forth herein.
- (6) Uses located within the Central Business District (B-3) are exempt from all off-street parking requirements.

Subd. 4. Design and Maintenance of Off-Street Parking Areas

- (1) Parking Areas shall be designed so as to provide adequate means of driveway access to a public alley or street. Such driveway access shall not exceed thirty (30) feet in width and shall be so located as to cause the least interference with traffic movement.
- (2) Curbing. All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five (5) feet from the side property line or a guard of normal bumper height not less than three (3) feet from the side property line.
- (3) Maintenance of off-street parking space. It shall be the joint and several responsibility of the operator and owner of the principal use, uses, and/or building to maintain, in a neat and adequate manner, the parking space, access ways, landscaping and required fences.
- (4) Determination of areas. A parking space shall be not less than three hundred (300) square feet per vehicle of standing and maneuvering area.
- (5) Landscaping. All plans for off-street parking areas shall be accompanied by a landscaping plan that, at the minimum, indicates the following:
 - a. Continuous perimeter landscaping consisting of hedging or evergreen trees along street frontage; and low plantings of denser evergreens, decorative stone walls of no more than four (4) feet in height, or decorative fencing along residential property.
 - b. Off-street parking areas with more than 10 parking spaces shall provide landscaping within the interior of the lot that represents a minimum of 15% of the total surface area of the lot. Said landscaping shall be constructed in such a manner as to prevent intrusion of vehicles into said planting area.
- (6) Lighting. All plans for off-street parking areas shall be accompanied by a lighting plan certified by an electrical engineer licensed by the State of Minnesota that adheres to the standards set forth by the Illuminating Engineers Society of North America, as may be amended from time of time.
- (7) Drainage. All plans for off-street surface parking lots shall include drainage plans

that keep all stormwater and snow melt runoff inside the parking lot.

Subd. 5. Minimum Off-Street Spaces Required

Note: the maximum number of employees present during the largest work shift shall calculate the standard of “space per employee”.

- | | | |
|------|--|--|
| (1) | One and two-family Dwellings | One (1) spaces per dwelling residences unit. |
| (2) | Multiple Dwellings | One and one-half (1 1/2) per dwelling unit. |
| (3) | Senior and/or Physically Handicapped Housing | One (1) space per dwelling unit plus one (1) space per employee. |
| (4) | Business and Professional Offices | One (1) space for each three hundred (300) sq. ft. of gross floor area. |
| (5) | Medical and Dental Two Clinics | Two (2) spaces per examining room plus one (1) space per employee. |
| (6) | Hotel or Motel (See (15) for restaurants and bars) | One (1) space for every two (2) employees. |
| (7) | Elementary and Junior High Schools | One (1) space for every two (2) employees. |
| (8) | High School | One (1) space per seven (7) students and one (1) space for every two (2) employees. |
| (9) | Drive-In Food Establishment | One (1) space for each twenty-five (25) sq. ft. of gross floor area in the building allocated to drive-in. |
| (10) | Bowling alley | Six (6) spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant. |
| (11) | Hospital and Nursing Homes | One (1) space for every three (3) beds plus one (1) space for each two (2) employees. |
| (12) | Antique Sales | One (1) space for each 500 sq. ft. gross floor area with a minimum of |

four (4) spaces.

- | | | |
|------|--|---|
| (13) | Armories | 80% of authorized unit strength. |
| (14) | Automobile Service Station | At least four (4) off-street parking spaces plus three (3) off-street parking spaces for each service stall. One (1) additional outside parking space shall be provided for each 150 sq. ft. of floor space devoted to retail sales in a service station convenience store. |
| (15) | Retail Store less than 5,000 sq. ft. gross floor area
floor area | At least one (1) off-street parking space for each one hundred (100) sq. ft. of gross floor area. |
| (16) | Retail Store between 5,000 sq. ft.
floor area | Fifty (50) parking spaces plus one (1) parking space per 150 sq. ft. of gross floor area in excess of 5,000 sq. ft. |
| (17) | Retail store in excess of 10,000 sq. ft. gross floor area | Eighty-three (83) parking spaces plus one (1) parking space per 250 sq. ft. of gross floor area in excess of 10,000 sq. ft. |
| (18) | Furniture and appliance stores, household equipment, carpet sales, or furniture repair shop over 1,000 sq. ft. of gross floor area | One (1) space for each four hundred (400) sq. ft. of gross floor area |
| (19) | Restaurants, Cafes, Bars, Taverns, Night Clubs | At least one (1) space for each three (3) seats based on maximum capacity |
| (20) | Undertaking Establishments | One (1) space for each four (4) seats |
| (21) | Industrial, Warehouse, Storage, Handling of Bulk Goods | At least one (1) space for each employee on maximum shift or one (1) space for each two thousand (2,000) sq. ft. Of gross floor area, whichever is larger |
| (22) | Churches, Theaters, Auditoriums and other places of assembly | One space for each 3 seats upon maximum capacity |

(23) Uses Not Specifically Noted

As determined by the City Council following review by the Planning Commission

Subd. 6. Shared Parking Facilities

Required parking facilities serving two or more uses may be located on the same lot or in the same structure provided that the total number of parking spaces furnished shall be not less than the sum of the separate requirements for each use, during any peak hour parking period when the parking facility is utilized at the same time by two or more uses. Conditions required for joint use:

- (1) The proposed joint parking space within the distance required under Subd. 2 of this Section of the uses it will serve.
- (2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
- (3) A properly drawn legal document approved by the City Council, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk.

SECTION 515.75 OFF-STREET LOADING AREAS

The regulations and requirements set forth in the Section shall apply to the required and non-required loading and unloading facilities in all the districts. If, in the application of the requirements of this Section, a fractional number is obtained, one loading space shall be provided for a fraction of 1/2 or more, and no loading space shall be required for a fraction of less than 1/2.

Subd. 1. General Provisions

- (1) Location. All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least twenty-five (25) 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.
- (2) Size. Unless otherwise specified in this Ordinance, a required loading berth 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 berths shall be not less than twelve (12) feet in width and twenty-five (25) feet in length.
- (3) Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner that will least interfere with traffic.
- (4) Surfacing. All loading berths and access ways shall be improved with a

bituminous or equally durable material to control the dust and drainage.

- (5) Accessory Use. Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this Ordinance shall not be used for the storage of goods, or inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
- (6) Off-Street Loading. In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.
- (7) Noise. Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m.

Subd. 2. Number of Required Loading Berths

- (1) Auditorium, Convention Hall, Public Buildings, Hospitals, Schools, Hotel, Sports Area. One loading berth 25 feet in length for each building having 1,000 to 10,000 square feet of floor area. For these buildings having 10,001 square feet of floor area or fraction thereof, one additional loading berth 50 feet in length.
- (2) Retail Sales and Service Stores, Offices. One loading berth 25 feet in length for each building having 6,000 square feet of floor area or more plus one additional loading berth 50 feet in length for each 25,000 square feet of floor area up to 100,000 square feet.
- (3) Manufacturing, Fabrication, Processing and Warehousing. One loading berth 25 feet in length for each building having 3,000 square feet or fraction thereof plus one loading berth 50 feet in length for each 25,000 square feet of floor area up to 100,000 square feet plus one loading berth for each 50,000 square feet of floor area over the first 100,000 square feet of floor area. The operator of the business shall have the option to declare the length of the berths required for buildings above 100,000 square feet of floor area except that one-half ($\frac{1}{2}$) or more of the total number of berths required shall be fifty (50) feet in length.
- (4) Other. There shall be provided adequate off-street loading space in connection with any structure that requires receipt or distribution of materials by vehicles.
- (5) Uses Not Specifically Noted Above Including Public Uses. Parking space requirements shall be determined by the Council upon advice from the Planning Commission.

SECTION 515.77 AUTO SERVICE STATION STANDARDS

The following standards shall apply to service station operations constructed after the effective date of this ordinance.

Subd. 1. Lot Size

A service station site shall be a minimum of twenty thousand (20,000) square feet in size.

Subd. 2. Setbacks

The building or buildings shall be set back at least thirty-five (35) feet from the street right-of-way. Near residential districts, the service station buildings, signs, and pumps shall be a minimum of twenty-five (25) feet from adjoining property. In commercial areas, the structures shall be set back at least ten (10) feet from adjoining property.

Subd. 3. Curb and Gutters

There shall be a raised curb along all interior driveways.

Subd. 4. Fencing and Screening

When adjacent to residential property, there shall be a screening fence as regulated by Section 515.59 Subd. 2. When adjacent to commercial property, there shall be a bumper-type or screening fence about eighteen (18) inches high between the station and the adjacent commercial property.

Subd. 5. Vehicles

No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than fifteen (15) days.

Subd. 6. Exterior Storage

Exterior storage besides vehicles shall be limited to service equipment and items offered for sale. Exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.

Subd. 7. Screening

All areas utilized for the storage or disposal of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner.

Subd. 8. Outdoor Displays

The storage of used tires, batteries, and other such items for sale outside the building shall be controlled; such items shall be displayed in specially designed containers and be limited to one (1) or two (2) areas well back from the street right-of-way lines. Junk cars, empty cans, and other unsightly materials are not permitted in an area subject to public view.

Subd. 9. Architecture

The station shall be of a design that is compatible with the surroundings.

SECTION 515.79 DRIVE-IN BUSINESS STANDARDS

The following standards shall apply to drive-in business constructed after the effective date of this ordinance.

Subd. 1. Design Standards

- (1) The entire area of any drive-in business shall have a drainage system approved by the City Engineer.
- (2) The entire area other than that occupied by structures or planting shall be surfaced with a bituminous or equally durable material that will control dust and drainage.
- (3) A fence or screen of acceptable design not over six (6) feet in height or less than four (4) feet shall be constructed along the property line abutting a residential district and such fence or screen shall be adequately maintained.

Subd. 2. General

- (1) Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service areas, indoor food and beverage service seating area.
- (2) Each drive-in business service food may have outside seating.
- (3) Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one (1) refuse receptacle per ten (10) vehicle parking spaces within the parking area.
- (4) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within two hundred and fifty (250) feet of any residential dwelling unit.
- (5) No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.
- (6) No access drive shall be within fifty (50) feet of intersecting street curb lines.
- (7) In the case of a drive-in theater, a solid fence not less than eight (8) feet in height and extending at least to within two (2) feet of the ground shall be constructed around the property.

- (8) The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

Subd. 3. Locations

- (1) No drive-in business serving food or beverage shall be located within two hundred fifty (250) feet of a public or parochial school, church, or any residential dwelling unit.
- (2) No drive-in shall be located on a predominantly residential street.

Subd. 4. Site Plan

- (1) The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.
- (2) A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.
- (3) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
- (4) The design of any structure shall be compatible with other structures in the surrounding area.

SECTION 515.81 AGRICULTURAL OPERATIONS

All farms in existence upon the effective date of this Ordinance within the City limits shall be a permitted use where the operator may conduct a farming operation. However, all regulations contained in these performance standards shall apply to all changes of the farming operation that will cause all or part of the area to become more intensively used or more urban in character. The State Building Code shall not apply to agricultural buildings except with respect to state inspections required or rule making authorized. The City Council may require any farm operator to secure a conditional use permit to expand or intensify said operations in the event of the following:

- (1) The farm is adjacent to, or within four hundred (400) feet of any dwelling unit and may be detrimental to living conditions by creating safety hazards or by emitting noise, odor, vibrations or similar nuisances.
- (2) The farming operations are so intensive as to constitute an industrial type of use consisting of the compounding, processing, and packaging of products for wholesale or retail trade.
- (3) Limited sales of farm produced products may be conducted from a temporary roadside stand, but such stand shall not exceed 12 feet in height or 500 square feet in

floor area, and the stand shall be a minimum of 50 feet from the street right-of-way.

SECTION 515.83 HOME OCCUPATIONS

Subd. 1. General Regulations

Customary home occupations shall be allowed if they meet the following conditions:

- (1) Such occupation is carried on in the principal buildings.
- (2) Not more than twenty-five percent (25%) of the gross floor area of the residence is used for this purpose.
- (3) Only articles made or originating on the premises shall be sold on the premises, unless such articles are incidental to a permitted commercial service.
- (4) No articles for sale shall be displayed so as to be visible from any street.
- (5) No person is employed other than a member of the household residing on the premises.
- (6) No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered.
- (7) Such occupation does not generate more than two (2) vehicles at one time.
- (8) Such occupation must provide off-street parking, but no more than two (2) spaces.
- (9) A person having a home occupation shall provide proof of meeting the above eight (8) requirements if complaints are received by the City Council.

SECTION 515.85 MINING AND EXTRACTION

Subd. 1. Purpose

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 400 cubic yards or more of material is moved or deposited shall require a permit under the provisions of this section.

Subd. 2. Administration

- (1) Permit Review - A conditional use permit shall be required for all mining and gravel operations. Said permit shall be valid for a three (3) year period, after which a permit renewal shall be required. All existing operations shall obtain a permit within three (3) years after the date of operation 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

- (2) The following operations shall be covered by this section:

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.

The manufacture of concrete building blocks or other similar blocks, if conducted on the site, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operations.

- (3) Renewal of Mining Permits - 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.

Subd. 3. Information Required

The person or agency requesting the permit shall provide the following information:

- (1) Name and address of person or agency requesting the mining permit.
- (2) The exact legal property description and acreage of area to be mined.
- (3) The following maps of the entire site and including all areas within three hundred fifty (350) feet of the site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below:

Map 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 existing wells

Map 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

Map C - End use plan to include:

- a. Final grade of proposed site showing
 - b. Elevations and contour lines at two (2) foot intervals
 - c. Location and species of vegetation to be replanted reclamation staging plan
- (4) A soil erosion and sediment control plan.
 - (5) A plan for dust and noise control.
 - (6) A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation, location and approximate acreage of each stage, and time schedule for reclamation.
 - (7) Any other information requested by the Planning Commission or City Council.

Subd. 4. Performance Standards

For such operations approved after the date of adoption of this Ordinance:

- (1) General Provisions - Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to minimize seeding on adjacent property. All equipment used for mining and extraction operations shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, noises, dust and vibrations adversely affecting the surrounding property.
- (2) Water Resources - The mining operation shall be conducted in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the mining operation.
- (3) Safety Fencing - Safety fencing may be required around all or portions of the mining operation at the discretion of the City Council.
- (4) Mining Access Roads - The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety as determined by the City.

- (5) Screening Barrier - To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties. A screening barrier may also be required between the mining site and any public road located within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees.
- (6) Setback - Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than one hundred (100) feet to any residential, commercial or industrial structures without the written consent of all owners and residents of said 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.
- (7) Appearance - All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures and plants will not become dilapidated.
- (8) Hours of Operation - All mining operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The City Council may allow operations at other hours if it can be demonstrated that the additional hours are necessary and are not detrimental to surrounding properties.
- (9) Access Roads - All access roads from mining operations to public highways, roads or streets or to adjoining property, shall be paved or surfaced to minimize dust considerations.

Subd. 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:

- (1) Within a period of three (3) months after the final termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a 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 last operating such buildings, structures and plants. A temporary variance may be granted for those buildings, structures, machinery and plants required to process previously mined materials stored on the site. Such variance may apply for only one (1) year, after which said buildings, structures, machinery and plants shall be removed.
- (2) The peaks and depressions of the area shall be graded and backfilled to a surface

which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen percent (18%) in grade.

- (3) Reclamation shall begin after the mining of twenty-five percent (25%) of the total area to be mined or four (4) acres whichever is less. Once these areas have been depleted of the mine deposit they shall be sloped and seeded as per the preliminary mining plan.
- (4) Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least six (6) inches. The topsoil shall be seeded, sodded, or planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.
- (5) The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site and shall be consistent with the end use plan.

SECTION 515.87 PLATTING

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.

SECTION 515.89 MAXIMUM HEIGHT REGULATIONS

Any structure above 75 feet in height not specifically permitted under the Ordinance shall require a conditional use permit. The applicant shall provide evidence that the structure will provide an essential service, and can be located at the proposed site without presenting a hazard or nuisance to nearby uses. The applicant shall provide the City with certified evidence of notification of the Commissioner of the Department of Transportation, as required by Aeronautics Rule 14 MCSR 1.3015, Subdivision C, for any structure above 200 feet in height.

SECTION 515.91 FLOOD PLAIN PERFORMANCE STANDARDS

Subd. 1. Standards for Floodway Conditional Uses

- (1) All Uses - No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials, or equipment, or other uses may be allowed as a Conditional Use which, acting alone or in combination with existing or reasonable anticipated future uses, will cause any increase in the state of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected. In addition, all floodway Conditional Uses shall be subject to the standards contained in Subdivision 2 and the following standards.
- (2) Fill
 - a. Any fill deposited in the floodway shall be no more than the minimum

amount necessary to conduct a Conditional Use listed in Section 515.37, Subdivision 3. Generally, fill shall be limited to that needed to grade or landscape for that use and shall not in any way obstruct the flow of floodwaters.

- b. Spoil from dredging or sand and gravel operations shall not be deposited in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
- c. Fill shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(3) Accessory Structures

- a. Accessory structures shall not be designed for human habitation.
- b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - 1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood and flow, and,
 - 2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- c. Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the Flood Plain-1 or Flood Plain-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the Flood Plain-3 or Flood Plain-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate:
 - 1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and,
 - 2. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood-proofed.
- d. Structural Works for Flood Control - Levees, dikes, and floodwalls shall not be constructed within the limits of the Floodway District. Other structural works for flood control such as dams and channel enlargements that will change the course, current, or cross-section of public water shall be subject to the provisions of Minnesota Statutes Chapter 105.

e. Storage of Materials and Equipment.

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removed from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

Subd. 2. Standards of Flood Fringe Conditional Uses

- (1) Commercial Uses - Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevations. However, the permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundate to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood.
- (2) Manufacturing and Industrial Uses - Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots maybe at lower elevations subject to requirements set out in Subdivision 2a above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

Subd. 3. Conditional Use Decision Factors

In passing upon a Conditional Use application, the City shall consider all relevant factors specified in other sections of this ordinance, and,

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others, or they may block bridges, culverts, or other hydraulic structures.
- (3) The proposed waters supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.

- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The relationship of the proposed use of the Comprehensive Plan and Flood Plain management program for the area.
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
- (11) The Compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

This Ordinance does not imply that areas outside the Flood Plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Brainerd or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

SECTION 515.92 TEA/COFFEE HOUSE

Subd. 1 Purpose and Intent

The City Council recognizes that there are zoning districts along major roadways that are transitioning from R-3 (Multiple Family) Districts to B-1 (Limited Business) and B-2 (Neighborhood Business) Districts. In some areas, uses that are permitted or conditional in B-1 and B-2 Districts may not be compatible with preserving the residential character of the neighborhood, there are however uses such as a tea/coffee house within an existing structure that, with appropriate conditions, can be compatible with and enhance the character of the neighborhood. It is therefore the intention of the City of Brainerd to allow Tea/Coffee House as a Conditional Use in B-1 (Limited Business) and R-3 (Multiple Family Residential) Districts subject to the following minimum conditions:

- (1) The structure shall maintain its current appearance. Interior and exterior modifications may be made to address accessibility issues but do not include the removal or relocation of partitions that would make the structure unsuitable for conversion back to a single-family structure.
- (2) The lot or parcel must be located abutting an arterial or collector street and in an area that is transitioning from residential to commercial uses. The lot or parcel must be located within 300 feet of other properties zoned and used for commercial purposes.
- (3) Off street parking must be provided in accordance with Section 515.73 Parking.
- (4) An identification sign not exceeding 12 square feet may be located on the site.
- (5) Adequate lighting must be provided between the structure and the parking area for safety. Said lighting shall be constructed to prevent direct line of sight between the

laminar and neighboring properties and the illumination of neighboring properties.

- (6) Drive-up window service is allowed in B-2, B-3 and B-4 Zoning Districts.
- (7) Consumption of food and beverage and sale of merchandise is conducted within the building.

Subd. 2 Allowable Uses

Allowable uses include the sale and on-site consumption of beverages, light lunches, and pastries; and limited retail sales of novelties, books, pictures, and artifacts.

SECTION 515.93 ADULT ESTABLISHMENTS

Subd. 1. Purpose and Intent

Findings of the City Council: Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul; Indianapolis; 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 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.

Subd. 2. Purpose

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.

Subd. 3. 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.

Subd. 4. Definitions

For purposes of this Ordinance the terms defined in this section have the meanings given them.

- (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 zooerastia;
 - 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: 25% or more.

Subd. 5. Applications of this Ordinance.

(1) In General.

- a. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.
- b. No Adult Establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Brainerd, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

- (2) Existing Adult Establishments. Within 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.

Subd. 6. Location.

Adult establishments are permitted uses in the B-4 General Business District and I-2 Industrial District, subject to the following requirements:

- (1) An adult use shall not be allowed within 600 feet measured in a straight line from the building or edge of leased building space to another existing adult use.
- (2) An adult use shall not be located within 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.
- (3) An adult use shall not be located within 1000 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.
- (4) An adult use shall not be located within 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.

Subd. 7. 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.

Subd. 8. Operation.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
- (5) 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.
- (6) 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.
- (7) Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
 - a. No dancer, live entertainer or performer shall be under 18 years old.
 - b. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
 - c. No dancer or performer shall perform any dance or live entertainment closer than 10 feet to any patron.
 - d. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
 - e. No patron shall pay or give any gratuity to any dancer or performer.

- f. No dancer or performer shall solicit or receive any pay or gratuity from any patron.

Subd. 9. Licenses

- (1) Licenses Required. All adult establishments, including any adult establishment operating at the time this Ordinance becomes effective, shall apply for and obtain a license from the City of Brainerd. A person or entity is in violation of this Ordinance if the person or entity operates an adult establishment without a valid license, issued by the City.
- (2) Applications. An application for a license must be made on a form provided by the City and must include:
 - a. If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation;
 - b. The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's;
 - c. The address and legal description of the premises where the adult establishment is to be located;
 - d. A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or adult business by the applicant, operator, or manager, and whether the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;
 - e. The activities and types of business to be conducted;
 - f. The hours of operation;
 - g. The provisions made to restrict access by minors;
 - h. A building plan of the premises detailing all internal operations and activities;
 - i. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the

premises to an accuracy of plus or minus six inches;

- j. A statement that the applicant is qualified according to the provisions of this Ordinance and that the premises have been or will be inspected and found to be in compliance with the appropriate State, County, and local law and codes by the health official, fire marshal, and building inspector;
- k. The names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two 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;
- l. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation; and
- m. Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

(3) Disqualifications.

The City will issue a license to an applicant within 30 days of the application unless one or more of the following conditions exist:

- a. The applicant is under 21;

- b. The applicant failed to supply all of the information requested on the license application;
 - c. The applicant gives false, fraudulent, or untruthful information on the license application;
 - d. The applicant has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments;
 - e. The adult establishment is not in full compliance with this Code and all provisions of state and federal law;
 - f. The applicant has not paid the required license and investigation fees;
 - g. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment or such license has been suspended or revoked, within the preceding twelve (12) months;
 - h. The applicant is not the proprietor of the establishment for which the license is issued; or
 - i. The adult establishment premises holds an intoxicating liquor, beer or wine license.
- (4) Requalification. An applicant may qualify for an adult establishment license:
- a. After one year has elapsed in the case of a previous license revocation;
 - b. After two years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor offense;
 - c. After five 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
 - d. After five 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 24-month period.
- (5) Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult establishment. The license shall be posted in a conspicuous place at or near the entrance to the Adult Establishment so that it may be easily read at any time.

Subd. 10. Fees

- (1) The license fee for adult establishments are as follow:
- a. The initial license fee shall be established by amendment to Section 1010 of the Brainerd City Code.
 - b. 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.
 - c. 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.
 - d. 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 30 days from the happening of one of the following events, provided that the event occurs more than 30 days before the expiration of the license:
 1. Destruction or damage of the licensed premises by fire or other catastrophe;
 2. The licensee's illness, if such illness renders the licensee unable to continue operating the licensed adult establishment;
 3. The licensee's death; or
 4. A change in the legal status making it unlawful for the licensed business to continue.
 - e. 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.
- (2) The one-time non-refundable background investigative fee for an adult establishment license is \$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.

- (3) The procedures for granting an adult establishment license are as follow:
- a. The City will conduct and complete an investigation within 30 days after the City Administrator receives a complete application and all license and investigative fees.
 - b. 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.
 - c. 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 30 days after the investigation is completed. If the City Council fails to act within 30 days after the investigation is completed, the application will be deemed approved.
 - d. 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 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.

Subd. 11. Inspection.

- (1) Access. An applicant or licensee shall permit health officials, representatives of the Police Department, Fire Department, Zoning Department, and Building Inspector, to inspect the premises of an adult establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.
- (2) Refusal to Permit Inspections. A person who operates an adult establishment or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the Police Department, Fire Department, and Building Inspector at any time it is occupied or open for business. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license as provided in Section 11 and Section 12.
- (3) Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.
- (4) Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one 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.

Subd. 12. Expiration and Renewal.

- (1) Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 7. Application for renewal accompanied by a \$50.00 renewal investigation fee must be made at least 60 days before the expiration date.
- (2) Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one 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 90 days have elapsed since the date denial became final.

Subd. 13. Suspension.

- (1) Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:
 - a. Violated or is not in compliance with any provision of this Ordinance.
 - b. Engaged in the sale or use of alcoholic beverages while on the adult establishment premises other than at an adult hotel or motel.
 - c. Refused to allow an inspection of the adult establishment as authorized by this Ordinance.
 - d. Knowingly permitted gambling by any person on the adult establishment premises.
 - e. Demonstrated inability to operate or manage an adult establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- (2) Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 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.

Subd. 14. Revocation

- (1) 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 12 months.
- (2) Causes of Revocation. The City may revoke a license if it determines that:
 - a. A licensee gave false or misleading information in the material submitted to the City during the application process;
 - b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - c. A licensee or an employee has knowingly allowed prostitution on the premises;
 - d. A licensee or an employee knowingly operated the adult establishment during a period of time when the licensee's license was suspended;
 - e. A licensee has been convicted of an offense listed in Section 7, Subd. 3(d), for which the time period required in Section 7, Subd. 4, has not elapsed;
 - f. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 7, Subd. 3(d) for which a conviction has been obtained, and the person or persons were employees of the adult establishment at the time the offenses were committed.
 - g. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- (3) Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (4) Exceptions. Section 12, Subdivision 2(g), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- (5) 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 90 days have elapsed since the date the revocation became effective. If the license is revoked under Section 12, Subdivision 2 (e), an applicant may not be granted another license until the appropriate number of years required under Section 7, Subd. 4 have elapsed.

- (6) 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 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.

Subd. 15. Procedures.

Issuances, suspensions, revocations and non-renewals of adult establishment licenses are governed by the following provisions:

- (1) In the event that the City Council proposes not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The Council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice. The City Council must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The Council must notify the licensee of its decision within that period.
- (2) If the Council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in State or Federal court challenging the Council's action, the suspension or revocation is stayed until the conclusion of such action.
- (3) If the City Council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in State or Federal court within that 15 days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.
- (4) If the City Council does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 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.

Subd. 16. 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.

Subd. 17. 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.

Subd. 18. Effective.

This Ordinance shall be effective one week from and after its publication.

SECTION 515.94 BED AND BREAKFAST

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. Bed and Breakfasts are allowed by a Conditional Use Permit in R-1, R-2, R-3, R-4, R-F and B-1 zoning districts as regulated in this section, subject to the following conditions:

- (1) At least two off-street parking spaces must be provided onsite for the owner or manager and one parking space for each room bed and breakfast unit. The parking spaces must be signed and the parking plan approved by the Zoning Administrator.
- (2) The dining facilities must not be open to the public and must be used exclusively by the registered guests unless allowed as a separate permitted or special use.
- (3) Bed and breakfast uses in residential zoning districts must be located at least 600 feet apart (approximately two blocks).
- (4) In residential zoning districts 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.
- (5) The bed and breakfast structure must be owner occupied and at least 65 years old or show proof of historic significance to the City.
- (6) The maximum of six bed and breakfast guestrooms may be established in a structure. The following lot and structure size criteria determines the number of guestrooms allowed in residential zones:

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

* 7000 sf in B-1 Zones

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.

- (7) Adequate lighting must be provided between the structure and parking areas for safety contiguous to residential structure.
- (8) Additional external lighting is prohibited.
- (9) An establishment must show proof of City building, fire and planning inspections, proof of state sales and use tax number for their business to the community development department.
- (10) Restoration or additions must meet the Secretary of Interior's standards for rehabilitation.

SECTION 515.95 ENFORCEMENT

Subd. 1. Violations

The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment for a term not to exceed ninety (90) days or both, plus in either case, the cost of prosecution.

Subd. 2. Penalties

Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitute a separate offense.

Subd. 3. Application to Community Personnel

The failure of any officer or employee of the community to perform any official duty imposed by this Ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

Subd. 4. Equitable Release

In the event of a violation or the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the community in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

Subd. 5. Penalties for Violation in Flood Zone

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.

Nothing herein contained shall prevent the City of Brainerd from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

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.

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 and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

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 30 days.

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.

SECTION 515.97 SEPARABILITY, SUPREMACY AND EFFECTIVE DATE

Subd. 1. Separability

Every Section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

Subd. 2. Supremacy

When any condition imposed by any provision of this Ordinance on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community ordinance or regulation, the more restrictive conditions shall prevail.

This Ordinance is not intended to abrogate any easements, restrictions, or covenant relating to the use of land or imposed on lands within the community by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any such easement, restriction, or covenant, or the provision of any private agreement, the provisions of this Ordinance shall prevail.

Subd. 3. Effective Date

This Ordinance shall take effect and be in full force one week from and after its publication. Ordinance Number 609 and its amendments and all other ordinances or part of ordinances of the City of Brainerd in conflict with the provisions of this ordinance are hereby repealed.

Adopted this 6th day of February, 1984.

/s/ Mildred M. Michaelis
Mildred M. Michaelis
President of the Council

Approved this 7th day of February, 1984.

/s/ C. Elmer Anderson
C. Elmer Anderson
Mayor

ATTEST: /s/ Richard M. Johnson
Richard M. Johnson, CMC
City Clerk/Treasurer

(2) This Ordinance was amended in part, by Ordinance No. 820. Adopted by the

City Council of the City of Brainerd, Minnesota, the 17th day of July, 1984.

Section 515.43/Subd. 5 Illuminated Signs---

/s/ Mildred M. Michaelis
Mildred M. Michaelis
President of the Council

/s/ C. Elmer Anderson
C. Elmer Anderson
Mayor

ATTEST: /s/ Richard M. Johnson
Richard M. Johnson, CMC
City Clerk/Treasurer

- (3) This Ordinance was amended in part, by Ordinance No. 830. Adopted by the City Council of the City of Brainerd, Minnesota, the 3rd day of June, 1985.
Section 515.31/Subd(I) Guard/Reserve Facilities

/s/ Mildred M. Michaelis
Mildred M. Michaelis
President of the Council

/s/ C. Elmer Anderson
C. Elmer Anderson
Mayor

ATTEST: /s/ Richard M. Johnson
Richard M. Johnson, CMC
City Clerk/Treasurer

- (4) This Ordinance was amended in part, by Ordinance No. 857. Adopted by the City Council of the City of Brainerd, Minnesota, the 4th day of May, 1987.
Section 515.13/Subd. 5/Rural Res. Dist. (RF) Subd. 5-Minimum Lot Requirement & Setbacks

/s/ James E. Brown
James E. Brown
President of the Council

/s/ Mildred M. Michaelis
Mildred M. Michaelis
Mayor

ATTEST: /s/ Richard M. Johnson
Richard M. Johnson, CMC
City Clerk/Treasurer

- (5) This Ordinance was amended in part, by Ordinance No. 885. Adopted by City Council of the City of Brainerd, Minnesota, the 17th day of April, 1990. b
Section 515.31/Permitted Uses in a Light Industry District

/s/ James E. Wallin

James E. Wallin
President of the Council

/s/ Robert E. Olson
Robert E. Olson
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (6) This Ordinance was amended in part, by Ordinance No. 890. Adopted by the City Council of the City of Brainerd, Minnesota, the 4th day of September, 1990.
Section 515.05/Day Care Facilities

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Robert E. Olson
Robert E. Olson
Mayor

ATTEST: /s. Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (7) This Ordinance was amended in part, by Ordinance No. 891. Adopted by the City Council of the City of Brainerd, Minnesota, the 4th day of September, 1990.
Section 515.05/Subd. 3/Transient Merchants

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Robert E. Olson
Robert E. Olson
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (8) This Ordinance was amended in part, by Ordinance No. 892. Adopted by City Council of the City of Brainerd, Minnesota, the 4th day of September, 1990. **h**
Section 515.19/Subd. 7/Senior &/or Physically Handicapped Housing-Minimum Lot Size
Section 515.69/Subd. 5/Senior &/or Physically Handicapped Housing

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Robert E. Olson
Robert E. Olson
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (9) This Ordinance was amended in part, by Ordinance No. 893. Adopted by the City Council of the City of Brainerd, Minnesota, the 17th day of September, 1990.
Section 515.09/Subd. 6/Rezone L. 1-12, B. O, West Brainerd

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Robert E. Olson
Robert E. Olson
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (10) This Ordinance was amended in part, by Ordinance No. 895. Adopted by the City Council of the City of Brainerd, Minnesota, the 1st day of October, 1990.
Section 515.05/ Subd. 13,28,47,49,117,128& Subd. 3 Rules & Definitions

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Robert E. Olson
Robert E. Olson
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (11) This Ordinance was amended in part, by Ordinance No. 904. Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of April, 1991.
Section 515.05/Subd. 3; Section 515.25/Subd. 2; Section 515.29/Subd. 2 Print Shop

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (12) This Ordinance was amended in part, by Ordinance No. 905. Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of April, 1991.
Section 515.23 Subd. (k) Day Care Facilities

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (13) This Ordinance was amended in part, by Ordinance No. 908. Adopted by the City Council of the City of Brainerd, Minnesota, the 17th day of June, 1991.
Section 515.05/Subd. 3 Automobile Body Shop

/s/ Raymond A. Charpentier
Raymond A. Charpentier
Vice-President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (14) This Ordinance was amended in part, by Ordinance No. 971. Adopted by the City Council of the City of Brainerd, Minnesota, the 19th day of September, 1994.
Section 515.07/Subd. 13(3) No accessory building shall exceed the height of the principal building

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland

Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (15) This Ordinance was amended in part, by Ordinance No. 972. Adopted by the City Council of the City of Brainerd, Minnesota, the 19th day of September, 1994.
Section 515.07/Subd. 13(6) An accessory building - -

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (16) This Ordinance was amended in part, by Ordinance No. 973. Adopted by the City Council of the City of Brainerd, Minnesota, the 19th of September, 1994.
Section 515.05/Subd. 3 Manufacturing, Light - -
Section 515.27/Subd. 4 (c) Light Manufacturing

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (17) This Ordinance was amended in part, by Ordinance No. 1014. Adopted by the City Council of the City of Brainerd, Minnesota, the 20th day of May, 1996.
Section 515.23,.25,.27/Subd. 3 & Section 515.29/Subd. 4 Single Family Dwelling

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (18) This Ordinance was amended in part, by Ordinance No. 1015. Adopted by the City Council of the City of Brainerd, Minnesota, the 21st day of May, 1996.
Section 515.29/Subd. 2 & Section 515.97 renumbered 515.99 & 515.99 to 515.101 Adult Uses

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (19) This Ordinance was amended in part, by Ordinance No. 1023. Adopted by the City Council of the City of Brainerd, Minnesota, the 19th day of August, 1996.
Section 515.13, 515.15, 515.17 Deletion-each dwelling shall be located on a permanent foundation - -

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (20) This Ordinance was amended in part, by Ordinance No. 1036. Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of September, 1997.
Section 515.05/Subd. 3 Assembly - -

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (21) This Ordinance was amended in part, by Ordinance No. 1042 . Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of December, 1997.
Section 515.23/Subd. 2 add (e) Personal services such as laundry, barber - -

/s/ James E. Wallin
James E. Wallin
President of the Council

/s/ Bonnie K. Cumberland
Bonnie K. Cumberland
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (22) This Ordinance was amended in part, by Ordinance No. 1114. Adopted by the City Council of the City of Brainerd, Minnesota, the 20th day of November 2000.
Section 515.13 Rural Agricultural (R-A) District ADD

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (23) This Ordinance was amended in part, by Ordinance No. 1140 . Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of April, 2002.
Section 515.17/Subd. 4 Bed & Breakfast
Section 515.94 Bed & Breakfast

/s/ Lucy R. Nesheim
Lucy R. Nesheim
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt

Daniel J. Vogt
City Administrator

- (24) This Ordinance was amended in part, by Ordinance No. 1160. Adopted by the City Council of the City of Brainerd, Minnesota, the 5th day of August, 2002.
Section 515.93 Adult Establishments

/s/Lucy R. Nesheim
Lucy R. Nesheim
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (25) This Ordinance was amended in part, by Ordinance 1162. Adopted by the City Council of the City of Brainerd, Minnesota, the 19th day of August, 2002.
Section 515.35/Subd. 2 (info pertaining to Adult Establishments)

/s/Lucy R. Nesheim
Lucy R. Nesheim
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (26) This Ordinance was amended in part, by Ordinance No. 1168. Adopted by the City Council of the City of Brainerd, Minnesota, the 16th day of September, 2002.
Section 515.07/Subd. 13(7) Outdoor Storage

/s/Lucy R. Nesheim
Lucy R. Nesheim
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt

City Administrator

- (27) This Ordinance was amended in part, by Ordinance No. 1173. Adopted by the City Council of the City of Brainerd, Minnesota, the 4th day of November, 2002.
Section 515.05/Subd. 3 Temporary Signs (Portable Signs)

/s/Lucy R. Nesheim
Lucy R. Nesheim
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (28) This Ordinance was amended in part, by Ordinance No. 1179. Adopted by the City Council of the City of Brainerd, Minnesota, the 18th day of November, 2002.
Section 515.25/Subd. 4(m) Limited sales within a structure listed in the State or National Register of Historic Places

/s/Lucy R. Nesheim
Lucy R. Nesheim
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (29) This Ordinance was amended in part, by Ordinance No. 1185. Adopted by the City Council of the City of Brainerd, Minnesota, the 17th day of March, 2003.
Section 515.07/Subd. 13(7) All accessory buildings in zoning districts R-1, R-2, R-3, R-4

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (30) This Ordinance was amended in part, by Ordinance No. 1189. Adopted by the City Council of the City of Brainerd, Minnesota, the 19th day of May, 2003.
Section 515.17/Subd. 4 Senior Housing in Suburban Residential (R-1) Districts (a) Multiple unit dwellings for occupancy solely by elderly persons.

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (31) This Ordinance was amended in part, by Ordinance No. 1208. Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of September, 2003.
Section 515.19/Subd. 4 Amending by addition to CUP ('Grandfather Clause)

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (32) This Ordinance was amended in part, by Ordinance No. 1210. Adopted by the City Council of the City of Brainerd, Minnesota, the 17th day of November, 2003.
Section 515.17/Subd. 4 Conditional Uses

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (33) This Ordinance was amended in part, by Ordinance No. 1212. Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of December, 2003.

Section 515.17; (adding language) Open Off-Street Parking Spaces & Off-Street Parking for Private Residential Usage, Establishing Off-Premise Surface Parking Lots as a CUP in R-1, R-2, R-3 R-4 Zoning Districts. Amending Section 515.73 Off-Street Parking Lots in the City of Brainerd

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (34) This Ordinance was amended in part, by Ordinance No. 1219. Adopted by the City Council of the City of Brainerd, Minnesota, the 2nd day of February, 2004.
Section 515.07/Subd. 21 Placement & Operation of Outdoor Wood Burning Furnaces

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (35) This Ordinance was amended in part, by Ordinance No. 1236. Adopted by the City Council of the City of Brainerd, Minnesota, the 6th day of July, 2004.
Section 515.07/Subd. 14 Exterior Design Standards (Placement & appearance of post-frame constructed buildings)

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (36) This Ordinance was amended in part, by Ordinance No. 1243. Adopted by the City Council of the City of Brainerd, Minnesota, the 20th day of September, 2004.

Section 515.17/Subd. 5 Minimum Lot Size Requirements and Setbacks

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council
/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (37) This Ordinance was amended in part, by Ordinance No. 1249. Adopted by the City Council of the City of Brainerd, Minnesota, the 15th day of November, 2004.

Section 515.15/Subd. 5 Sideyard Setbacks in R-F (Rural Residential) District

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (38) This Ordinance was amended in part, by Ordinance No. 1250. Adopted by the City Council of the City of Brainerd, Minnesota, the 20th day of December, 2004.

Section 515.21/Subd. 4 Tea/Coffee House

/s/James J. Dehen, Jr.
James J. Dehen, Jr.
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (39) This Ordinance was amended in part, by Ordinance No. 1260. Adopted by the City Council of the City of Brainerd, Minnesota the 16th day of May, 2005.

Section 515.25/Subd. 4(14) Bed & Breakfast
Section 515.94 Bed & Breakfast

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (40) This Ordinance was amended in part, by Ordinance No. 1267. Adopted by the City Council of the City of Brainerd, Minnesota, 6th day of September, 2005.
Section 515.73/Subd. 4(5(b)) Off street parking areas with more than 10 parking spaces shall provide - -

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (41) This Ordinance was amended in part, by Ordinance No. 1269. Adopted by the City Council of the City of Brainerd, Minnesota the 19th day of September, 2005.
Sections 515.05 (State Licensed Residential Facility), 515.17, 515.19, 515.21, 515.31

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (42) This Ordinance was amended in part, by Ordinance No. 1272. Adopted by the City Council of the City of Brainerd, Minnesota the 7th day of November, 2005.
Section 515.05 (Non-Profit and Not-For-Profit Organizations, 515.17, 515.19, 515.21

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin

James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (43) This Ordinance was amended in part, by Ordinance No. 1276. Adopted by the City Council of the City of Brainerd, Minnesota the 21st day of February, 2006.
Section 515.09 Subd. 1 & Subd. 11 Administration

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (44) This Ordinance was amended in part, by Ordinance No. 1277. Adopted by the City Council of the City of Brainerd, Minnesota the 21st day of February, 2006.
Section 515.33 & 515.43 Planned Unit Development (PUD'S)

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (45) This Ordinance was amended in part, by Ordinance No. 1278. Adopted by the City Council of the City of Brainerd, Minnesota the 21st day of February, 2006.
Section 515.33 Subd. 2 (11) Transmission Repair in the Light Industry (I-1) District

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (46) This Ordinance was amended in part, by Ordinance No. 1284. Adopted by the City Council of the City of Brainerd, Minnesota the 1st day of May, 2006.

Section 515.27 Subd. 1 (6) Signs (for the purpose of selling/leasing property)

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (47) This Ordinance was amended in part, by Ordinance No. 1287. Adopted by the City Council of the City of Brainerd, Minnesota the 19th day of June, 2006.

Section 515.25 Subd. 4 (16); 515.92 Subd. 1 Coffee Shops in the Limited Business (B-1) District

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (48) This Ordinance was amended in part, by Ordinance No. 1293. Adopted by the City Council of the City of Brainerd, Minnesota the 6th day of November, 2006.

Section 515.47 Subd. 1 (2) Except for traffic control and election signs, all signs are prohibited---

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator

- (49) This Ordinance was amended in part, by Ordinance No. 1311. Adopted by the City Council of the City of Brainerd, Minnesota the 15th day of October, 2007.
Section 515.31 Subd. 3 (13) Department of Human Services (DHS) licensed Drug and Alcohol Treatment and Recovery Facilities and Unlicensed Drug and Alcohol Treatment and Recovery Facilities-----

/s/ Kelly J. Bevans
Kelly J. Bevans
President of the Council

/s/ James E. Wallin
James E. Wallin
Mayor

ATTEST: /s/ Daniel J. Vogt
Daniel J. Vogt
City Administrator