

BRAINERD, MN
Chapter 515 ZONING

ALLOWED USES.

515-3-1 Uses. This Section is intended to describe the land uses that are permitted, permitted through regulations or requirements, or that are prohibited within the City.

- A. This Section, including Appendix A: Table of Uses, is organized and classifications are assigned by Base Zoning District. Properties fully or partially contained within an Overlay District are subject to additional standards and use restrictions which are provided in the applicable Overlay District standards. The process for obtaining any required permit is provided in Section [515-5] of this Ordinance.
- B. **Table of Uses.** The Table of Uses is provided in Appendix [A] of this Ordinance. The Table of Uses is organized by Use Type and Base Zoning District. The Table of Uses classifies the identified use as either permitted, permitted through regulation or requirement, or prohibited.

515-3-2 Uses Not Provided for in this Ordinance. Whenever in any Zoning District, if a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the City Council or Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what Zoning District would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission, or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

515-3-3 Use Specific Regulations. The following performance standards are established and must be met to obtain the applicable permit as identified on the Appendix A: Table of Uses. The standards which follow are the minimum required standards, and if listed as a conditional use, additional standards or reasonable conditions may be placed on any approved permit for the requested use. All uses shall comply with the rules and regulations of the Base Zoning District, Special District and Overlay District were applicable. Any use must also meet the rules and regulations of any other applicable agencies with jurisdiction of the subject use including local, State and Federal agencies.

A. **Minimum Standards Established.** The following Use Specific Regulations are established as minimum requirements. Any use identified on Appendix A: Table of Uses that requires an Administrative Permit, Interim Use Permit or Conditional Use Permit is subject to additional reasonable conditions as established during the applicable permitting process.

B. **Compliance with General Building Development and Design Standards.** All uses, whether permitted or conditionally permitted, that change or alter a site must comply with the standards established by Section [515-4}, including the following specific references:

1. Section [515-4-8] Outdoor Lighting.
2. Section [515-4-9] Landscaping, Green Space and Screening Requirements.
3. Section [515-4-10] General Landscaping Improvement Standards.
4. Section [515-4-11] Fence Standards.
5. Section [515-4-12] Off-street Parking.

C. **Additional Standards for Uses abutting RL-1, RL-2, CN-1, CN-2, and TN-1 Zoning Districts.** The uses identified on the Table of Uses have been identified as reasonably permitted within a Base Zoning District.

BRAINERD, MN
Chapter 515 ZONING

Some non-residential uses are permitted within predominantly residential Zoning Districts. The following additional standards are established for such uses:

1. Any non-residential use in a commercial or industrial zoning district that abuts a residential use or Residential Zoning District shall screen any abutting property line to comply with the standards established in 515-4-9 and 515-4-10. For purposes of this Section the following Residential and Non-Residential Zoning Districts are defined as:
 - a. *Residential Zoning Districts:* RL-1, RL-2, GL, CN-1, CN-2, and TN-1.
 - b. *Non-residential Zoning Districts:* CC, GC, TN-2, TC, MS, PSP, ME, and GI.

515-3-4 Adult Establishments.

A. Purpose and Intent.

1. **Findings of the City Council.** Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, MN; Indianapolis, IN; Alexandria, MN; Rochester, MN; Phoenix, AZ; Los Angeles, CA; Seattle, WA; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of Brainerd makes the following findings regarding the need to regulate adult establishments. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff. Based on these studies and findings, the City Council concludes:
 - a. Adult establishments have adverse secondary impacts of the types set forth above.
 - b. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
 - c. It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the City.
 - d. Minnesota State Statutes, Section 462.357, allows the City to adopt regulations to promote the public health, safety, morals, and general welfare.
 - e. The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.
 - f. Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing City crime prevention programs and law enforcement services.
 - g. Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
 - h. Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
 - i. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.
2. It is the purpose of this Ordinance to regulate adult establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

BRAINERD, MN
Chapter 515 ZONING

- a. Prevent additional criminal activity within the City.
 - b. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood.
 - c. To locate adult establishments away from residential areas, schools, churches, libraries, parks, and playgrounds.
3. Prevent concentration of adult establishments within certain areas of the City.
- a. *Provisions.* The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent or effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

B. Applications of this Ordinance.

1. In General.

- a. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.
 - b. No adult establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Brainerd, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.
2. Existing Adult Establishments. Within twelve (12) months of the effective date of this Ordinance, any existing adult establishment shall be in compliance with all requirements of this Ordinance. Existing adult establishments are exempt from the location requirements in Section [3].
3. Location. Adult establishments are permitted uses in the General Industrial (GI) District, subject to the following requirements:
- a. An adult use shall not be allowed within six hundred (600) feet measured in a straight line from the building or edge of leased building space to another existing adult use.
 - b. An adult use shall not be located within five hundred (500) feet measured in a straight line from the building or edge of a leased building space to the property line of any residentially zoned property.
 - c. An adult use shall not be located within one thousand (1,000) feet measured in a straight line from the building or edge of leased building space to the property line of any existing school, place of worship, library, day care, park, or playground.
 - d. An adult use shall not be located within five hundred (500) feet measured in a straight line from the building or edge of a leased building space to the property line of any City owned park and recreational property.
4. Hours of Operation. No adult establishment shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m., weekdays and Saturdays, nor at any time on Sundays or national holidays.
5. Operation.

BRAINERD, MN
Chapter 515 ZONING

- a. *Off-site Viewing.* Any business operating as an adult establishment shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.
- b. *Entrances.* All entrances to the business, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way.
6. Layout. The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.
7. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
8. Signs. Signs for adult establishments shall comply with the City's Ordinance for signs addressed in the Ordinance Section [515-3-35]. Signs for adult establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
9. Access by Minors. No minor shall be permitted on the licensed premises. Adult goods or materials may not be offered, sold, transferred, conveyed, given, or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.
10. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
 - a. No dancer, live entertainer or performer shall be under eighteen (18) years old.
 - b. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two (2) feet from the level of the floor.
 - c. No dancer or performer shall perform any dance or live entertainment closer than ten (10) feet to any patron.
 - d. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
 - e. No patron shall pay or give any gratuity to any dancer or performer.
 - f. No dancer or performer shall solicit or receive any pay or gratuity from any patron.

C. Licenses.

1. Licenses Required. All adult establishments, including any adult establishment operating at the time this Ordinance becomes effective, shall apply for, and obtain a license from the City of Brainerd. A person or entity is in violation of this Ordinance if the person or entity operates an adult establishment without a valid license, issued by the City.
2. Applications. An application for a license must be made on a form provided by the City and must include:
 - a. If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five (5) percent of the issued and outstanding stock of the corporation.
 - b. The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owners.
 - c. The address and legal description of the premises where the adult establishment is to be located.

BRAINERD, MN
Chapter 515 ZONING

- d. A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or adult business by the applicant, operator, or manager, and whether the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five (5) percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community.
 - e. The activities and types of business to be conducted.
 - f. The hours of operation.
 - g. The provisions made to restrict access by minors.
 - h. A building plan of the premises detailing all internal operations and activities.
 - i. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
 - j. A statement that the applicant is qualified according to the provisions of this Ordinance and that the premises have been or will be inspected and found to be in compliance with the appropriate State, County, and local law and codes by the health official, fire marshal, and building inspector.
 - k. The names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two (2) persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
 - l. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.
 - m. Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise.
3. Disqualifications. The City will issue a license to an applicant within thirty (30) days of the application unless one or more of the following conditions exist:

BRAINERD, MN
Chapter 515 ZONING

- a. The applicant is under 21.
 - b. The applicant failed to supply all of the information requested on the license application.
 - c. The applicant gives false, fraudulent, or untruthful information on the license application.
 - d. The applicant has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or adult establishments.
 - e. The adult establishment is not in full compliance with this Code and all provisions of State and Federal law.
 - f. The applicant has not paid the required license and investigation fees.
 - g. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment or such license has been suspended or revoked, within the preceding twelve (12) months.
 - h. The applicant is not the proprietor of the establishment for which the license is issued.
 - i. The adult establishment premises holds an intoxicating liquor, beer, or wine license.
4. Re-qualification. An applicant may qualify for an adult establishment license:
- a. After one (1) year has elapsed in the case of a previous license revocation.
 - b. After two (2) years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor offense.
 - c. After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense.
 - d. After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two (2) or more misdemeanor offenses of combination of misdemeanor offense occurring within any twenty-four (24) month period.
5. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult establishment so that it may be easily read at any time.
6. Fees.
- a. The license fee for adult establishments is as follow:
 - i. The initial license fee shall be established by amendment to Section [1010] of the Brainerd City Code.
 - ii. An application for a license must be submitted to the City Administrator and accompanied by payment of the required license fee. Upon rejection of an application for a license, the City will refund the license fee.
7. Licenses will expire on December 31 in each year. Each license will be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro-rated fee. In computing a pro-rated fee, any un-expired fraction of a month will be counted as one month.
8. No part of the fee paid by any license will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the City Council within thirty (30) days from the

BRAINERD, MN
Chapter 515 ZONING

happening of one of the following events, provided that the event occurs more than thirty (30) days before the expiration of the license:

- a. Destruction or damage of the licensed premises by fire or other catastrophe.
 - b. The licensee's illness, if such illness renders the licensee unable to continue operating the licensed adult establishment.
 - c. The licensee's death.
 - d. A change in the legal status making it unlawful for the licensed business to continue.
9. An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City Council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the City Administrator in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.
10. The one-time non-refundable background investigative fee for an adult establishment license is one hundred dollars (\$100.00) and shall be charged for each person identified on the application as an owner, operation, or manager of the business and for each successor, owner, operator, or manager.

D. Procedures for granting an adult establishment license. The procedures are as follow:

1. The City will conduct and complete an investigation within thirty (30) days after the City Administrator receives a complete application and all license and investigative fees.
2. If the application is for a renewal, the applicant will be allowed to continue business until the City Council has determined whether the applicant meets the criteria of this Ordinance for a renewal license.
3. If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the City Council within thirty (30) days after the investigation is completed. If the City Council fails to act within thirty (30) days after the investigation is completed, the application will be deemed approved.
4. A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five (5) percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult establishments existing at the time of the adoption of this Section must obtain an annual license.

E. Inspection.

1. Access. An applicant or licensee shall permit health officials, representatives of the Police Department, Fire Department, Zoning Department, and Building Inspector, to inspect the premises of an adult establishment for the purpose of ensuring compliance with the law at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.
2. Refusal to Permit Inspections. A person who operates an adult establishment or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the Police Department, Fire Department, and Building Inspector at any time it is occupied or open for business. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license as provided in [F, G and H] of this Subsection.

BRAINERD, MN
Chapter 515 ZONING

3. Exceptions. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least twelve (12) hours.
4. Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one (1) year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request.

F. Expiration and Renewal.

1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in preceding subsections [C and D]. Application for renewal accompanied by a fifty dollars (\$50.00) renewal investigation fee must be made at least sixty (60) days before the expiration date.
2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

G. Suspension.

1. Causes of Suspension. The City may suspend a license for a period not to exceed thirty (30) days if it determines that the licensee or an employee of a licensee has:
 - a. Violated or is not in compliance with any provision of this Ordinance.
 - b. Engaged in the sale or use of alcoholic beverages while on the adult establishment premises other than at an adult hotel or motel.
 - c. Refused to allow an inspection of the adult establishment as authorized by this Ordinance.
 - d. Knowingly permitted gambling by any person on the adult establishment premises.
 - e. Demonstrated inability to operate or manage an adult establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
2. Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

H. Revocation.

1. Suspended Licenses. The City may revoke a license if a cause of suspension in Subsection [G] occurs and the license has been suspended at least once before within the preceding twelve (12) months.
2. Causes of Revocation. The City may revoke a license if it determines that:
 - a. A licensee gave false or misleading information in the material submitted to the City during the application process.
 - b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.
 - c. A licensee or an employee has knowingly allowed prostitution on the premises.

BRAINERD, MN
Chapter 515 ZONING

- d. A licensee or an employee knowingly operated the adult establishment during a period of time when the licensee's license was suspended.
 - e. A licensee has been convicted of an offense listed in Section [C.3], for which the time period required in Section [C.4], has not elapsed.
 - f. On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section [C.3] for which a conviction has been obtained, and the person or persons were employees of the adult establishment at the time the offenses were committed.
 - g. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, or masturbation to occur in or on the licensed premises.
- I. **Appeals.** The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- J. **Exceptions.** Section [H.2.g.], does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- K. **Granting a License After Revocation.** When the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult establishment license for one (1) year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license is revoked under Section [H], an applicant may not be granted another license until the appropriate number of years required under this Section have elapsed.
- L. **Notice.** A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.
- M. **Procedures.** Issuances, suspensions, revocations, and non-renewals of adult establishment licenses are governed by the following provisions:
- 1. In the event that the City Council proposes not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The Council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within thirty (30) days of the date of the notice. The City Council must determine whether to suspend or revoke a license within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner. The Council must notify the licensee of its decision within that period.
 - 2. If the Council determines to suspend or revoke a license, the suspension or revocation is not effective until fifteen (15) days after notification of the decision to the licensee. If, within those fifteen (15) days, the licensee files and serves an action in State or Federal court challenging the Council's action, the suspension or revocation is stayed until the conclusion of such action.
 - 3. If the City Council determines not to renew a license, the licensee may continue its business for fifteen (15) days after receiving notice of such non-renewal. If the licensee files and serves an action in State or Federal court within fifteen (15) days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.

BRAINERD, MN
Chapter 515 ZONING

4. If the City Council does not grant a license to an applicant, then the applicant may commence an action in State or Federal court within fifteen (15) days for the purpose of determining whether the City acted properly. The applicant may not commence doing business unless the action is concluded in its favor.
5. Transfer or License. A licensee shall not transfer this license to another, nor shall a licensee operate an adult establishment under the authority of a license at any place other than the address designated in the application.
6. Severability. Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.
7. Effective. This Ordinance shall be effective one (1) week from and after its publication.

515-3-5 Animal Hospital, Veterinary Clinic or Kennel

A. Any Animal Hospital, Veterinary Clinic or Kennel must comply with the following minimum standards:

1. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.
2. Animal carcasses are properly disposed of in a manner not utilizing on-site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.
3. A ventilation system shall be designed so that no odors or organisms will spread between wards or to the outside air and will be capable of completely exchanging internal air at a rate of at least twice per hour. Air temperature must be maintained between sixty (60) and seventy-five (75) degrees Fahrenheit.
4. A room separate from the kennel area shall be provided of sufficient size to adequately separate animals that are sick or injured from healthy animals.
5. Indoor animal kennel floors and walls shall be made of non-porous materials or sealed concrete to make it non-porous.
6. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.
7. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.
8. An animal kennel in the TN-2, TN-3 and CC Zoning Districts is permitted as an accessory use to a veterinary clinic provided that:
 - a. The number of animals boarded shall not exceed twenty (20).
 - b. An indoor or outdoor exercise area shall be provided to accommodate the periodic exercising of animals boarded at the kennel.

515-3-6 Auto Dealership

A. Any Auto Dealership must comply with the following minimum standards:

1. Outdoor sales area shall be set at least five (5) feet back from all property lines, and at least 15 feet back from any Street surface.
2. Outdoor sales shall be physically defined on the site by surfacing, curbing, landscaping, or a fence barrier.
3. The boulevard portion of the street right-of-way shall not be used for parking, or storage or display of sale items.

BRAINERD, MN
Chapter 515 ZONING

4. Outside sales areas must be fenced or screened from view of neighboring residential uses or abutting Residential Zoning Districts.
5. All lighting shall be hooded and downcast so that the light source is not visible from the public right-of-way or from an abutting residence.
6. All display/sales/storage areas must be paved and must comply with any requirements of the City Engineer.
7. Required parking shall be segregated from the sales display. The area used for sales shall not take up any required parking space.

515-3-7 Auto and Truck Repair (including Body Shops)

A. Any Auto and Truck Repair business must comply with the following minimum standards:

1. All outdoor storage of vehicles shall be screened by at least a six (6) foot fence, but not in excess of eight and one-half (8½) feet in height and shall be ninety (90) percent opaque fence.
2. Any vehicle parked or stored on the property for longer than twenty-four (24) hours shall be kept in the screened yard.
3. The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a storm water drainage system and is subject to the approval of the City Engineer.
4. All painting shall be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulated matter so that the use shall be in compliance with the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, or successor regulations.
5. The emission of odor by a use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota regulations APC, or successor regulations.
6. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota Uniform Fire Code.
7. All outside storage shall be prohibited except for customer automobiles and trucks awaiting repair.

515-3-8 Auto Wrecking or Salvage Yard

A. Any Auto Wrecking or Salvage Yard uses must comply with the following minimum standards:

1. The perimeter of the yard area used for auto wrecking or salvage must be screened by a fence or compact evergreen hedge which is at least fifty (50) percent opaque and at least six (6) feet high.
2. All other yards must be screened to comply with the applicable standards stated in Section [515-4-10].
3. The outside storage area must be surfaced to control dust and drainage, which shall be subject to the approval of the City Engineer

515-3-9 Bed and Breakfasts

A. **Purpose and Intent.** The City Council recognizes that bed and breakfasts are an asset to the community and help the preservation of historic homes because the expense of owning and maintaining historic homes has made them less suitable for single family dwellings. Conversion of historic houses into multifamily uses is usually determined by the neighborhood where it is located. It is therefore the intention of the City to limit bed and breakfast uses to those homes where the use would benefit the surrounding area by allowing appropriate adaptive reuse of historic dwellings.

B. **Application.** Any bed and breakfast must comply with the following standards:

BRAINERD, MN
Chapter 515 ZONING

1. At least two (2) off-street parking spaces must be provided on site for the owner and one (1) parking space for each room of a bed and breakfast unit. The parking spaces must be signed, and the parking plan approved by the Zoning Administrator.
2. The dining facilities must not be open to the public and must be used exclusively by the registered guests unless allowed as a separate permitted or conditional use.
3. Bed and breakfast uses in residential areas must be located at 600 feet apart (approximately two (2) blocks).
4. An identification sign not exceeding 12 square feet may be located on the site. The sign must match the architectural features of the structure.
5. The maximum of six (6) bed and breakfast guestrooms may be established in a structure. The following lot and structure size criteria determine the number of guestrooms allowed:

Table 515-3-9.1 Bed and Breakfast Lot and Structure Size Criteria

Maximum # Guestrooms Permitted	Original Number of Bedrooms	Maximum Gross House Size Not Including Basement in Square Feet	Minimum Zoning Lot Size in Square Feet
1	2	Up to 2,499	7,500
2	3	2,500 – 2,999	10,000
3	4	3,000 – 3,499	10,000
4	5	3,500 – 4,999	15,000
5	6	5,000 up	20,000
6	7	5,000 up	20,000

- C. Maximum gross house size is determined by using the total square footage of habitable living space within the structure. The number of original bedrooms in the structure will determine the number of guestrooms that will be allowed. This determination will be made by the Building Official. In the case of a family with children the family’s bedroom use must be determined before the number of permitted guestrooms are determined, and no family member must be displaced for a guestroom.
- D. Adequate lighting must be provided between the structure and parking areas for safety contiguous to residential structure.

515-3-10 Brew Pub/Brewery (off-sale, on-sale, taproom, tasting room), Cidery, Microdistillery, Cocktail Room

- A. **Brew Pub Off-Sale.** A brewer with an off-sale malt liquor license subject to the provisions of Minnesota Statutes 340A and the following:
 1. No outdoor storage is permitted.
 2. No odors from the brewery facility shall be perceptible beyond the property line. If such odors occur, the brewery facility operator shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- B. **Brew Pub On-Sale.** A brewer with an on-sale malt liquor license subject to the provisions of Minnesota Statutes 340A and the following:
 1. No outdoor storage is permitted.
 2. The operation must comply with the requirements of [515-3-26] for Outdoor Dining.
 3. No odors from the brewery shall be perceptible beyond the property line. If such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
 4. On-site sale of wine or spirits is permitted in accord with Minnesota Statutes and Brainerd City Code XII.

BRAINERD, MN
Chapter 515 ZONING

- C. **Brewery with Taproom On-Sale.** A brewer with an on-sale brewery taproom license for the “On-Sale” of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. The operation must comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.
 3. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- D. **Brewery with Taproom Off-Sale.** A brewer with an off-sale brewery taproom license for the “off-sale” of malt liquor produced on the licensed premises subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. A taproom for malt liquor “off-sale” produced on-site shall require an “on-sale” taproom room license from the City of Brainerd, according to the City Code Section XII.
 3. Comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.
 4. No odors from the brewery shall be perceptible beyond the property line. When such odors occur, the brewery shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control standards.
- E. **Microdistilleries and Cocktail Rooms.** Subject to the provisions of Minnesota Statutes 340A and the following:
1. No outdoor storage is permitted.
 2. A cocktail room shall require an “on-sale” taproom room license from the City of Brainerd, according to the City Code Section XII.
 3. Comply with the requirements of Section [515-3-26] for Outdoor Dining, if applicable.

515-3-11 Bulk Liquid Storage

- A. Any Bulk Liquid Storage use must comply with the following minimum standards:
1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
 2. A drainage system subject to the approval of the City Engineer shall be installed.
 3. Storage areas are landscaped, fenced, and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
 4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
 5. All storage tanks shall be located in the rear yard not less than 25 feet from any property boundary lines and setback 150 feet from any adjoining residential zoning district. No tanks shall be permitted in the front yard or side yard abutting public rights-of-way.
 6. Storage tanks shall be surrounded by 25 feet of open area. Storage of any kind is prohibited in said open area, except equipment incidental to the storage tank. Approved parking must be set back ten (10) feet from any storage tank.
 7. Storage tanks shall be set back from existing structures, as outlined in the Fire Code, based on tank size.
 8. All bulk storage plans and processes shall be subject to review and approval of the Fire Department.

BRAINERD, MN
Chapter 515 ZONING

9. Storage tanks shall not interfere with site circulation, including but not limited to, parking, driveway, curb cuts, and loading areas.
10. A wire weave/chain link security fence shall be required around all storage tanks. The location of said fence shall be as per the Uniform Fire Code.
11. Storage sites shall be accessible by service and emergency vehicles.
12. All filling valves of the storage tanks shall be enclosed and have locking devices.
13. A warning sign shall be required for every tank and shall be placed in a conspicuous location, directly on the tank indicating a supplier's name, address, phone number, that highly flammable and dangerous material is stored therein, and that no smoking requirements must be observed or a sufficient warning to that effect. Said signage may not exceed four (4) square feet.
14. Provisions are made to control and minimize noise, air, and water pollution.

515-3-12 Coal, Tar, Creosote, Concrete or Asphalt Processing

- A. Any coal, tar, creosote, concrete or asphalt processing or distillation and acid manufacturing use must comply with the following minimum standards:
1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
 2. A drainage system subject to the approval of the City Engineer shall be installed.
 3. Storage areas are landscaped, fenced, and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
 4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
 5. Provisions are made to control and minimize noise, air, and water pollution.

515-3-13 Commercial Car Wash

- A. Any Commercial Car Wash, whether principal or accessor use, must comply with the following minimum standards:
1. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence.
 2. Stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum 30-minute period and shall be subject to the approval of the City Engineer.
 3. Parking or car stacking space shall be screened from view of abutting Residential Zoning Districts.
 4. The entire area other than occupied by the building or plantings shall be surfaced with concrete or bituminous, subject to the approval of the City Engineer.
 5. The entire area shall have a drainage system which is subject to the approval of the City.
 6. All lighting shall be hooded and downcast so that the light source is not visible from the public right-of-way or from an abutting residence.
 7. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.
 8. Provisions are made to control and reduce noise.

BRAINERD, MN
Chapter 515 ZONING

515-3-14 Commercial Day Care Facilities

- A. **Purpose and Intent.** The regulation of commercial day care facilities in this Ordinance is to establish standards and procedures by which day care facilities can be conducted within the City without jeopardizing the health, safety, and general welfare of the day care participants and/or the surrounding neighborhood. This Section establishes the City's minimum requirements for the establishment of a day care facility which is not defined as a permitted use by State Statute, or which are operated in places other than single family homes. Day care facilities defined as permitted uses by State Statutes operate in a single-family dwelling as an accessory use.
- B. **Application.** Commercial day care facilities must obtain the required permit as identified on the Appendix A: Table of Uses. In addition to the City regulation, all day care facility operations shall comply with the minimum requirements of the Minnesota Department of Health and Human Services regulations, as may be amended.
- C. **Sketch Plan.** All applications for a day care facility shall be accompanied by a Sketch Plan as described in Section [515-5-9] of this Ordinance.
- D. **General Provisions.** Day care facilities shall be allowed as a principal use, provided that the day care facilities meet all the applicable provisions of this Section.
1. Lot Requirements and Setbacks. The proposed site for a day care facility must have a minimum lot area as required by the applicable Base Zoning District in which it is located and as determined by the Minnesota Department of Health and Human Services. The City Council may increase the required lot area in those cases where such an increase is considered necessary to ensure compatibility of activities and maintain the public health, safety, and general welfare. The day care facility must meet the minimum setback requirements of the respective Base Zoning District. The City Council may increase setback requirements if considered necessary to ensure compatibility.
 2. Sewer and Water. All day care facilities shall have access to municipal sewer and water or have adequate private sewer and water to protect the health and safety of all persons who occupy the facility.
 3. Screening. A day care facility shall provide screening along any shared property boundaries, regardless of adjacent use.
 4. Parking. There shall be off-street parking located separately from any outdoor play area and must comply with all applicable standards.
 5. Loading. Off-street loading spaces must be provided.
 6. Signage. All signing and informational or visual communication devices shall be in compliance with the provisions of Section [515-3-35] of this Ordinance.
 7. Compliance with State Requirements. The building and operation shall be in full compliance with State of Minnesota, Department of Health and Human Services regulations and be licensed accordingly.
- E. **Non-Conforming Uses.** Existing day care facilities lawfully existing on the effective date of this Ordinance may continue as non-conforming uses. Any existing day care facility that is discontinued for a period of more than one (1) year or is in violation of the provisions of the Ordinance, under which it was initially established, shall be brought into conformity with the provisions of this Section.
- F. **Inspection.** At any and all reasonable hours, with or without notice, the City hereby reserves the right upon issuing any day care facility a Conditional Use Permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Section, Ordinance, or any conditions additionally imposed.

515-3-15 Commercial Greenhouse

- A. Commercial greenhouses supporting the operations of a floral shop or licensed food establishment must comply with the following minimum standards:

BRAINERD, MN
Chapter 515 ZONING

1. Structure framing shall be treated wood, aluminum, or steel and shall be covered by materials as regulated by Section [515-4-6] of this Ordinance.
2. Structure shall not exceed 15 feet in height.
3. Structure may be located on a separate lot from the establishment or floral shop it supports provided that:
 - a. The lot is within 150 feet of the principal business.
 - b. The structure shall meet the setback requirements of the Base Zoning District or 10 feet from all property lines, whichever is greater.
4. No outdoor storage is permitted.
5. Indoor storage shall be limited material incidental to the operation of a greenhouse.
6. Should the establishment or floral shop cease operations, the greenhouse must be removed within 60 days.
7. Sales shall only occur at the principal place of business that is supported by the greenhouse.

515-3-16 Commercial Riding Stables

A. Commercial riding stables must comply with the following minimum standards:

1. Minimum lot size shall be 20 acres.
2. Any building in which animals are kept, whether roofed shelter or enclosed structure, must be located a minimum of 300 feet or more from any lot line.
3. The animals shall, at a minimum, be kept in an enclosed pen or corral of sufficient height and strength to retain such animals. Said pen or corral may not be located closer than 100 feet from a lot line.
4. Compliance with all applicable Minnesota Pollution Control Agency rules.
5. Compliance with all other applicable State and local regulations pertaining to nuisance, health, and safety conditions, etc.

515-3-17 Drive-through Business

A. Any drive-through, whether principal or accessory, business must comply with the following minimum standards:

1. A minimum of 120 feet of segregated automobile stacking must be provided for a single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to 60 feet per lane.
2. The stacking lane and its access must be designed to control traffic in a manner to protect the buildings and will not interfere with on-site traffic circulation or access to the required parking space.
3. No part of the public street or boulevard may be used for stacking of automobiles.
4. The stacking lane, order board intercom, and window placement shall be designed and located in such a manner as to minimize glare to abutting premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.
5. The drive-up window and its stacking lanes shall be screened from view of abutting Residential Zoning Districts and public street rights-of-way.
6. A lighting and photometric plan will be required that illustrates the drive-up service lane lighting and must demonstrate compliance with this Ordinance.

515-3-18 Essential Services

A. **Purpose and Intent.** The purpose of this Section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines, substations and related structures in such a manner that

BRAINERD, MN
Chapter 515 ZONING

the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

- B. Application.** All telephone lines, pipelines for local distribution, underground transmission lines, overhead electric transmission lines less than 33 KV, and related structures, which are extended to serve more than one (1) parcel and are proposed to be installed at locations other than in public right-of-way, must obtain the appropriate permit as identified on the Appendix A: Table of Uses. Approval by the City shall be based upon the information furnished in the procedural requirements as outlined in the following Section.

C. Installation Requirements.

1. Prior to the installation of any of the previous essential services, the owner of such service shall file with the City, all maps and other pertinent information as deemed necessary for the City to review the proposed project.
2. The Zoning Administrator shall review and provide recommendations regarding the project's relationship to the Comprehensive Plan and/or Ordinances and parts thereof.
3. In considering applications for the placement of essential services, as regulated in this Section, the Zoning Administrator shall consider the effects of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated, and the effect of the proposed project upon the Comprehensive Plan. In addition, the following specific performance standards shall be reviewed as they may apply to the application:
 - a. *Setbacks.* The proposed essential service shall meet required accessory setbacks for the respective zoning district.
 - b. *Parking.* If deemed necessary by the Zoning Administrator, the site must provide for required off-street parking in conformance with Section [515-4-12] of this Ordinance.
 - c. *Building Materials.* The essential service buildings must be constructed with exterior building facades that maintain a high standard of architectural and aesthetic compatibility with surrounding properties and in compliance with standards of this Ordinance.
 - d. *Screening and Landscaping.* Screening and landscaping from neighboring property shall be provided in accordance with Section [515-4-9 and 515-4-10] of this Ordinance.
 - e. *Site Access.* Direct lot access from major collector or arterial streets shall be discouraged and where possible, be provided access through shared access arrangement from an existing curb cut and driveway or a neighboring use. Direct lot access from a minor collector or local street may be allowed, provided the curb cut access complies with the standards outlined in Section [515-4-12] of this Ordinance.
 - f. Unless otherwise approved by Zoning Administrator, all equipment shall be completely enclosed in a permanent building with no outside storage.
4. If the Zoning Administrator denies issuance of the requested Administrative Permit, the applicant may appeal said decision to the Board of Zoning Appeals under the rules and procedures as set forth in Section [515-5-11] of this Ordinance.

D. Application.

1. All receiving or transmission facilities (i.e., facilities not required for local distributing network) and overhead transmission and substation lines in excess of 33 KV must obtain the appropriate permit as identified on the Appendix A: Table of Uses. The following requirements shall apply and accompany any permit application in addition to the permit requirements established in Section [515-5-2]:
 - a. Adherence to all applicable Federal Aviation Administration (FAA) and State performance standards.
 - b. The performance standards as specified in this Section are adhered to.

BRAINERD, MN
Chapter 515 ZONING

- c. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon initial approved plans shall require the appropriate permit amendment.
2. Lots reserved specifically for essential services, whether of record, or newly subdivided, may be less than the specified dimensions of the applicable Zoning District under the following stipulations:
 - a. The lot is of sufficient dimensions to allow the setbacks from all property lines to be equal to height of the various structures on the parcel or the setback requirements of the district, whichever are greater. Lesser structure setbacks may be allowed by the City Council upon demonstration that the facility's design is such that the collapse of said structure will not endanger surrounding property. In no case shall the setbacks be reduced to less than that required by the individual districts.
 - b. Applications for subdivision of new lots under this provision are accompanied by the appropriate permit applications.
 - c. A restrictive covenant, removable by the City, is recorded against a parcel which prohibits any sale, transfer, or use other than for an essential service as defined in the City ordinances so long as the parcel is substandard in size, according to the applicable Zoning Districts.
 - d. In the event of abandonment of the essential service for any reason on the substandard lot, all equipment, structures, cables, buildings, or any other improvements to the property shall be removed from said property within a period of three (3) months. At the end of three (3) months, if the above listed items have not been completely removed, the City may enter said property and remove any of the above listed items and improvements and charge said costs to the owner(s) of the property, and any such unpaid charge shall be a lien against the affected property, including any and all administrative, legal and other fees expended by the City in enforcing this provision.
 - e. Any alteration of an existing use (i.e., building expansion, change/intensification in use, etc.) involving items not identified upon approved initial plans shall require a permit amendment.

515-3-19 Home Businesses

- A. **Purpose and Intent.** The purpose of this Section is to provide specific standards for Home Businesses not meeting the criteria as established in Subsection [D]. The intent of the standards and regulations is to minimize potential adverse impacts to the surrounding neighborhood.
- B. **Application.** Subject to Section [515-5-10], Non-Conforming Lots, Buildings, Structures and Uses, and other applicable sections of this Ordinance, all occupations and businesses conducted in a home or in a residential accessory building shall comply with the provisions of this Section. This Section shall not be construed, however, to apply to home businesses and businesses related to farming operations.
- C. **Procedures.**
 1. Home Business – Permitted. Any Home Business meeting the criteria established in Subsection [D] shall be permitted and is not subject to any special permits.
 2. Home Business – Administrative Permit. Any proposed Home Business not meeting the criteria established in Subsection [D] shall be required to obtain an Administrative Permit as shown on the Appendix A: Table of Uses.
- D. **Requirements-General Provisions.**
 1. Criteria for Permitted Home Businesses. The following criteria is established for permitted Home Businesses. All criteria must be met, or an Administrative Permit is required.
 - a. The occupation or profession must be lawful and conducted within the Principal Dwelling Unit.
 - i. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barbershops, beauty shops, or similar uses. Only articles made or services originating on the premises may be sold on the premises.

BRAINERD, MN
Chapter 515 ZONING

- ii. The owner, if different than the Home Business operator, must provide written approval of the operations of the business.
 - b. Other than signs permitted in residential districts, evidence of the occupation shall not be visible from any public right-of-way. Evidence includes, but is not limited to, outdoor storage of materials, equipment, or merchandise.
 - c. No traffic shall be generated by such Home Business in greater volume than would normally be expected to a residence in a residential neighborhood, and the driveway or alley access shall be designed accordingly. On-site parking area shall not exceed two (2) stalls and shall not be located in any required yard setback area. Any off-street parking area must be screened from any adjacent residential use.
 - d. No equipment, activity, or process shall be used in such Home Occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of the lot; and such use must not endanger the health and safety of the occupants or neighborhood residents.
 - e. No accessory building shall be used for a Home Business.
 - f. Entrance to the Home Business shall be gained from within the principal building. Not more than twenty-five (25) percent of the gross floor area of the residence shall be used for this purpose.
 - g. A person having a Home Business shall provide proof of meeting the above requirements if complaints are received by the City Council.
2. Home Business not meeting any of the criteria established in (1).
- a. Any proposed Home Business not meeting the criteria established in 1., must obtain an Administrative Permit, which may include reasonable conditions to protect the health and safety of the surrounding neighborhood.
 - b. The proposed Home Business must be identified as a permitted home business type in item D.1.a.i.
 - c. The proposed Home Business must be accessory to the principal residential use, and the owner of the business must be an occupant of the subject property.
 - d. Any lawful occupation or profession engaged within a dwelling unit by the property owner and/or occupant which involves any of the following:
 - i. The storage of stock-in-trade incidental to the performance of the service.
 - ii. Repair or manufacturing which requires equipment other than that customarily found in a home.
 - iii. The employment on the premises at any one time, of not more than one (1) person who is a non-resident of the premises.
 - iv. The need for more than two (2) parking spaces, but not exceeding four (4) parking spaces, in addition to spaces required for the persons residing on the premises.
 - e. Only articles made or services provided on the premises may be sold on the premises.
 - f. An attached garage and/or an accessory building may be used.
 - g. The Home Business may not include over-the-counter sales of merchandise produced off the premises.
 - h. All such occupants shall obtain written approval of the property owner and provide evidence of such approval at the time of an application for an Administrative Permit.
 - i. The Administrative Permit may include conditions that require the expiration of the Permit upon the sale of the property, change in tenancy of the property, or an event or date as established by the Zoning Administrator.

BRAINERD, MN
Chapter 515 ZONING

E. **Inspection.** The City hereby reserves the right upon issuing any Home Business Administrative Permit to inspect during reasonable hours, without notice, the premises in which the occupation is being conducted to ensure compliance with the provisions of this Section and any conditions additionally imposed.

F. **Revocations.**

1. Any Home Business Administrative Permit shall remain in effect until:
 - a. Such time as the business is not in compliance with any portion of this Ordinance, or any applicable State or Federal regulation.
 - b. Such time that there is a violation of the terms and conditions of the permit approval.
 - c. Such time as there is a change in the conditions of operation of the business as it was originally approved; including any changes in the nature of the business, any substantial change in the extent of business, any expansion of business facilities, or any other circumstances related to the business which have the potential to significantly effect surrounding properties, or which may pose a threat to the health, welfare or safety of the general public.
 - d. Such time as the license or permit expires.
2. At such time that the City has cause to believe that any of the events listed in a.-d. above have taken place, the City shall immediately notify the permit holder and owner, if different than the operator, of the allegations of violation and the necessary corrections required to bring the Administrative Permit into compliance.

515-3-20 Hospitality Business – Hotels, Motels, Conference Centers

- A. Any hotel, motel, conference/convention/reception facility must comply with the following minimum standards:
1. The hospitality business shall maintain daily written records reflecting the renting, letting, or other provisions of any of its rooms including check in and check out dates of each person over 18 years of age that rents, lets or is otherwise provided a room or occupies a room on an overnight basis. Such records shall be made available to the City of Brainerd upon request.
- B. Any extended stay hotels and motels must comply with the following requirements:
1. The City of Brainerd will be notified prior to becoming an extended stay facility.
 2. Stays are limited to 90 consecutive days.
 3. All guest rooms which have facilities for both storage and food preparation less than 300 square feet of floor area are limited to a maximum of two (2) persons per room; however, for all such guest rooms greater than 300 square feet, one additional person shall be allowed per each 75 square feet of floor area up to a maximum of four (4) persons.
 4. Kitchen facilities including a stove and oven are provided.

515-3-21 Mini Self-storage

- A. Any mini self-storage business must comply with the following minimum standards:
1. A minimum of 25 percent of the site must be open green space and landscaped in accordance with a plan approved by the City Council.
 2. No buildings shall be located closer than 25 feet to each other to allow for parking, loading, driveway, and fire lanes.
 3. No single building shall be greater than 150 feet in length.
 4. All structures are to be within 200 feet of a fire hydrant.

BRAINERD, MN
Chapter 515 ZONING

5. All driveways and parking areas are to be hard (blacktop or concrete) surfaced and adequate turning radius for fire truck maneuverability is to be maintained throughout the site. Designated snow storage space is to be provided to ensure adequate and safe access during winter months.
6. Any structures having exposure to an abutting residential use, Residential Zoning District or public right-of-way, park, or similar public use areas shall be of vinyl, brick, natural stone, wood, or stucco facing material.
7. No retailing, wholesaling, manufacturing, repair, or other such activity other than storage is to occur within the self-storage, mini warehousing facility.

515-3-22 Mining and Extraction

A. **Purpose and Intent.** The purpose of this Section is to control mining, extraction, gravel, and land reclamation operations so as to minimize conflicts with adjacent land uses and to ensure that the mining area is restored at the completion of the mining operation. Any lot or parcels upon which four hundred (400) cubic yards or more of material is moved or deposited shall require an Interim Use Permit as regulated by Section [515-5-3] of this Ordinance.

B. **Administration.**

1. Permit Review. The appropriate permit as identified on the Appendix A: Table of Uses must be obtained. The City Council may also require a Performance Bond or some other form of financial guarantee from the landowner to ensure that the conditions in this Section are met.
2. The following operations shall be covered by this Section.
 - a. The removal, crushing, washing, refining, borrowing, or processing of material. In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site.
 - b. The manufacture of concrete building blocks or other similar blocks, if conducted on the site, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the mining operations.
3. Renewal of Mining Permits. As a part of the Interim Use Permit, renewal dates for the mining operation may be included if agreed upon by the applicant and the City in order to monitor the progress of the mining operation. All property owners and residents within 350 feet of the mining operation shall be notified of a proposed Mining Permit renewal request.

C. **Information Requirement.** The person or agency requesting the permit shall provide the following information in addition to the information required for a Conditional Use Permit as regulated by Section [515-5-2] of this Ordinance:

1. Name and address of person or agency requesting the Mining Permit.
2. The exact legal property description and acreage of area to be mined.
3. The following surveys of the entire site and including all areas within 350 feet of the site. All surveys shall be drawn at a scale of one (1) inch to 100 feet unless otherwise stated below:
 - a. *Survey A - Existing conditions to include:*
 - i. Contour map (two (2) foot intervals).
 - ii. Existing vegetation.
 - iii. Existing drainage and permanent water areas.
 - iv. Existing structures and existing wells.
 - b. *Survey B - Proposed operations to include:*
 - i. Structures to be erected.

BRAINERD, MN
Chapter 515 ZONING

- ii. Location of sites to be mined showing depth of proposed excavation.
 - iii. Location of tailings deposits showing maximum height of deposits.
 - iv. Location of stationary machinery to be used in the mining operation.
 - v. Location of storage of mined materials, showing maximum height of storage deposits.
 - vi. Location of vehicle parking, access roads and local routes to truck routes.
 - vii. Location of storage of explosives erosion and sediment control structures.
- c. *Survey C - End use plan to include:*
- i. Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
 - ii. Location and species of vegetation to be replanted reclamation staging plan.
 - iii. Demonstration of future street access as provided for by the Comprehensive Plan.
 - iv. Demonstration of future utility access and extension locations.
 - v. Description of future land use plan consistent with the Comprehensive Plan and site's ability to accommodate such future uses.
4. A soil erosion and sediment control plan.
 5. A plan for dust and noise control.
 6. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation, location and approximate acreage of each stage, and time schedule for reclamation.
 7. Any other information requested by the Planning Commission or City Council.

D. Performance Standards. For such operations approved after the date of adoption of this Ordinance:

1. General Provisions. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance and to minimize seeding on adjacent property. All equipment used for mining and extraction operations shall be constructed, maintained, and operated in such a manner as to minimize, as far as is practicable, noises, dust and vibrations adversely affecting the surrounding property.
2. Water Resources. The mining operation shall be conducted in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the mining operation.
3. Safety Fencing. Safety fencing may be required around all or portions of the mining operation at the discretion of the City Council.
4. Mining Access Roads. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety as determined by the City.
5. Screening Barrier. To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent properties. A screening barrier may also be required between the mining site and any public road located within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast-growing trees.
6. Setback. Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than one hundred (100) feet to any residential, commercial, or industrial structures. Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zoning district where such operations are not permitted. Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be

BRAINERD, MN
Chapter 515 ZONING

conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

7. Appearance. All buildings, structures and plants used for the production or processing of sand and gravel shall be maintained in such a manner as is practicable and according to acceptable industrial practice as to assure that such buildings, structures, and plants will not become dilapidated.
8. Hours of Operation. All mining operations shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The City Council may allow operations at other hours if it can be demonstrated that the additional hours are necessary and are not detrimental to surrounding properties.
9. Access Roads. All access roads from mining operations to public highways, roads, or streets or to adjoining property shall be paved or surfaced to minimize dust considerations.
10. Lighting. All exterior lighting shall be consistent with the requirements as outlined in Section [515-4-8] of this Ordinance.

E. **Land Reclamation.** All mining sites shall be reclaimed immediately after mining operations cease. Reclamation shall be complete within one (1) year, unless otherwise approved by the City Council. The following standards shall apply:

1. Within a period of three (3) months after the final termination of a mining operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of an Interim Mining Permit, all buildings, structures, and plants incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator. A temporary deferment may be granted by the City Council for those buildings, structures, machinery, and plants required to process previously mined materials stored on the site. Such deferment may apply for only one (1) year, after which said buildings, structures, machinery, and plants shall be removed.
2. The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall. No finished slope shall exceed eighteen (18) percent in grade.
3. Reclamation shall begin after the mining of twenty-five (25) percent of the total area to be mined or four (4) acres whichever is less. Once these areas have been depleted of the mine deposit they shall be sloped and seeded as per the preliminary mining plan.
4. Reclaimed areas shall be surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least six (6) inches. The topsoil shall be seeded, sodded, or planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion.
5. The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site and shall be consistent with the end use plan.

515-3-23 Model Homes

A. **Purpose and Intent.** The purpose of this Section is to permit the construction of a Model Home for purpose of marketing a new development in the City. A Model Home is permitted with the following conditions:

1. A Model Home may only be constructed after the final approval of a subdivision or Planned Unit Development.
2. The final Development Agreement must address and include any special conditions for any Model Home used for the promotion of the development.

515-3-24 Motor Vehicle Fuel Sales

A. Any business with Motor Vehicle Fuel Sales, whether principal or accessory, must comply with the following minimum standards:

BRAINERD, MN
Chapter 515 ZONING

1. Installation must comply with State and City standards. Adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access, and other activities on the site. Fuel pumps shall be installed on pump islands.
2. A minimum lot area of 40,000 square feet and minimum lot frontage of 100 feet is required.
3. Architectural standards must comply with the applicable standards for commercial design construction.
4. A protective canopy structure may be located over the pump island(s) as an accessory structure. The canopy shall meet the following performance standards:
 - a. The edge of the canopy shall be 20 feet or more from the front and/or side lot line, provided that adequate traffic visibility both on-site and off-site is maintained.
 - b. The canopy shall not exceed 18 feet in height and must provide 14 feet of clearance to accommodate a semi-trailer truck passing underneath.
 - c. The canopy fascia shall not exceed three (3) feet in vertical height.
 - d. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy. Total canopy illumination may not exceed 115-foot candles below the canopy at ground level. The fascia of the canopy shall not be illuminated.
 - e. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
5. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
 - a. The canopy signs do not exceed more than 20 percent of the canopy façade facing a public right-of-way.
 - b. The canopy fascia shall not be illuminated except for permitted canopy signage.
 - c. Canopy posts/signposts shall not obstruct traffic or the safe operation of the gas pumps.
6. Pump islands must comply with the following performance standards:
 - a. Pump islands must be elevated six (6) inches above the traveled surface of the site.
 - b. All pump islands must be set at least 30 feet back from any property line. Additionally, the setback between the pump islands curb face must be at least 24 feet.
7. Circulation and Loading. The site design must accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas must be exclusive of off-street parking stalls and drive aisles. A site plan must be provided to illustrate adequate turning radius, using appropriate engineering templates.
8. Pedestrian Traffic. An internal site pedestrian circulation system shall be defined, and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk must be a minimum of five (5) feet wide and clear of any obstacle or impediment. The pedestrian sidewalk may be reduced to a minimum of three (3) feet wide and clear of any obstacle or impediment when segregated from parking or drive aisles by a physical barrier that prevents vehicles from overhanging the pedestrian sidewalk.
9. Noise. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in the Brainerd City Code.

BRAINERD, MN
Chapter 515 ZONING

515-3-25 Nursing Homes

- A. Nursing homes and similar group housing, not including hospitals, must comply with the following minimum standards:
1. Side yards must double the minimum requirements established in the Base Zoning District.
 2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic that will be generated from the site.
 3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.

515-3-26 Outdoor Dining

- A. Any outdoor dining facilities accessory to a restaurant must comply with the following minimum standards:
1. The applicant must submit a Sketch Plan and any other information that clearly demonstrates the location and type of all tables, refuse receptacles, and wait stations.
 2. Access to the outdoor dining area must be provided only through the principal building.
 3. The dining area must be screened from view from abutting Residential Zoning Districts.
 4. All lighting be hooded and downcast away from adjacent residential uses.
 5. The applicant must demonstrate that pedestrian circulation is not disrupted as a result of the outdoor dining area by providing the following:
 - a. Outdoor dining area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods, and shall be subject to review and approval by the City Council.
 - b. Minimum clear passage zone for pedestrians at the perimeter of the restaurant shall be at least five (5) feet without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, streetlights, parking meters, or the like.
 - c. Overstory canopy of trees, umbrellas or other structures extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven (7) feet above sidewalk.
 6. The dining area is surfaced with concrete, bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.
 7. A minimum width of 36 inches shall be provided within aisles of the outdoor dining area.
 8. Storage of furniture shall not be permitted outdoors between November 1 and March 31. Outdoor furniture that is immovable or permanently fixed or attached to the sidewalk shall not be defined as Outdoor Storage between April 1 and October 31st. Any immovable or permanently fixed or attached furniture must be approved as part of the Administrative Permit.
 9. Additional off-street parking may be required pursuant to the requirements set forth in Section [515-4-12] based on the additional seating area provided by the outdoor dining area.
 10. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation and shall be designed to prevent spillage and blowing litter.
- B. The following additional minimum standards are established for any non-enclosed areas for dining and/or serving alcohol when accessory to a restaurant and/or bar:
1. To deter the free passage of any person or substance beyond the barriers of the non-enclosed areas, a barrier at a minimum of thirty-six (36) inches made of wood, vinyl, wrought iron, brick or natural stone, planter or other approved material shall be provided.

BRAINERD, MN
Chapter 515 ZONING

2. Barrier openings shall be spaced such that visibility is allowed but the passage of an alcoholic beverage through an opening to a person that is not within the non-enclosed area is prohibited.
3. The primary access and egress will be from the main premises or structure and no other access or egress will be allowed other than those required as emergency exits. The outdoor sale area will be defined or structurally constructed so as to prohibit the free passage of any person or substance beyond said area.
4. Smoking in the area, if allowed by the business owner, is permitted provided the area is in compliance with the Minnesota Freedom to Breathe Act of 2007.
5. The Building Official shall review the suitability of the area in light of the applicable fire, building, and life safety codes and the adequacy of the proposal to provide for the safety of persons on the premises.
6. There shall be no amplified live music allowed in the area except in the case of Special Event, which requires a permit from the City. Music shall be kept to a level that is not intrusive to surrounding property.
7. All licenses required for serving alcohol specified in city code Chapter XIII shall be obtained.

515-3-27 Outdoor Service, Sale, and Rental

A. Any outdoor services, sale and rental use must comply with the following minimum standards:

1. Outside services, sales and equipment rental connected with the principal use is limited to fifty (50) percent of the gross floor area of the principal use.
2. Outside sales areas are fenced and screened from view of neighboring properties and any public rights-of-way.
3. All lighting shall be hooded and downcast so that the light source shall not be visible from the public right-of-way or neighboring properties.
4. Any dedicated sales area shall be hard surfaced to control dust and drainage.
5. Additional standards in Town Center (TC) and Main Street (MS) Zoning Districts.
 - a. Outside services, sales, and equipment rental accessory to the principal use and limited in area to fifteen (15) percent of the gross floor area of the principal building or fifteen (15) percent of the tenant bay if it is a multiple tenant building. Outside service, sales and rental area must be located on private property and shall not intrude on the public sidewalk or boulevard.

515-3-28 Outdoor Storage

A. **Purpose and Intent.** This Section is intended to provide regulations for outdoor storage on properties in the City. The purpose of the regulations is to ensure that any outdoor storage is not a hazard to the public health and safety, does not impair scenic views, or constitute a nuisance.

B. **General Provisions.**

1. The City Council may order the owner of any property to cease or modify outdoor storage uses, including existing uses, provided it is found that the use constitutes a public nuisance, as described in the Brainerd City Code.
2. Outdoor Storage is as regulated by the Appendix A: Table of Uses. Outdoor storage is not permitted in any Residential Zoning District.
 - a. In all Residential Zoning Districts, all materials, equipment, and personal property shall be stored within a building or be fully screened so as not to be visible from abutting properties or right-of-way, except for the following:
 - i. Clothes lines.
 - ii. Recreational equipment (does not include recreational vehicles).

BRAINERD, MN
Chapter 515 ZONING

- iii. Construction and landscaping materials or equipment currently being used on the premises (within a period of one (1) year).
- iv. Agricultural equipment and materials currently being used on the premises (within a period of one (1) year).
- v. Rear or side yard storage of firewood for the purpose of consumption only by the person or persons residing on the premises.
- vi. Off-street parking of licensed and operable passenger automobiles and pick-up trucks (does not include racing cars or stock cars) may be stored in the front yard on a designated driveway or parking area.
- vii. One (1) licensed fish house may be stored in the rear yard provided it meets the accessory building setbacks identified in the Base Zoning District. Fish houses used as storage buildings shall be treated as an accessory building and count against the number and floor area limits for the lot.

C. Non-Residential Zoning Districts.

- 1. All exterior storage shall be fully screened so as not to be visible from abutting properties and rights-of-way. All outdoor storage shall follow the standards as established Section 515-4-10. G. for screening of Parking Lots.
- 2. Screening shall be required except for the following:
 - a. Merchandise being displayed for sale in accordance with zoning district requirements.
 - b. Materials and equipment currently being used for landscaping or construction on the premises (within a period of one (1) year).
- 3. The storage area does not take up parking space or loading space as required for conformity to this Ordinance.
- 4. The storage area is fenced and secured.
- 5. The storage area is paved or surfaced to control dust and erosion.
- 6. All parking, loading and truck staging activities shall occur on site. On-street parking and loading associated with the use is prohibited.
- 7. Noises emanating from the use are in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations MPC 7030.
- 8. Outdoor storage accessory to a principal use is permitted with the following additional minimum standards:
 - a. The storage area is landscaped and screened from view of neighboring uses, residential zoning districts, and public rights-of-way per Section 20 of this Ordinance.
 - b. Storage area is fenced in a manner approved by the City.
 - c. Storage area is paved or surfaced to control dust and erosion.
- 9. All lighting shall be in compliance with Section 18 of this Ordinance.
 - a. The storage area does not take up parking space or loading space as required for conformity to this Ordinance and not in front yards.
 - b. The storage area shall not abut property zoned for residential, rural, or business use, including land in a neighboring township or city. "Abutting" includes across a street. "Abutting" does not include properties that touch only corner to corner.
 - c. The storage area shall not abut a school or a public park.
 - d. The ratio of storage area to building footprint shall not exceed three and one-half to one (3.5:1).

BRAINERD, MN
Chapter 515 ZONING

- e. Storage shall not include material considered hazardous under Federal or State Environmental Law.

515-3-29 Outdoor Woodburning Furnaces, Placement and Operation

- A. The placement of any outdoor woodburning furnace must comply with the following minimum standards:
 - 1. Outdoor wood burning furnaces shall be located at 25 feet from all property lines.
 - 2. The outdoor wood burning furnace shall be located on a property in compliance with manufacturer's recommendations and/or testing and listing requirements for clearance for combustible materials.
 - 3. The outdoor wood burning furnace shall be located at least 100 feet from any building that is not served by an outdoor wood burning furnace.
 - 4. The chimney height of any new outdoor wood burning furnace shall extend at least two (2) feet above the peak of any building not served by an outdoor wood burning furnace within 300 feet.

515-3-30 Parking Lots

- A. Any parking lot not located on the same lot as the Principal Structure must comply with the following minimum standards:
 - 1. The parking lot shall be adjacent to or across an alley from a Base Zoning District that permits or conditionally permits the principal use served by the parking lot.
 - 2. The parking lot parcel(s) shall be no wider than the boundary line of the primary parcel on which the associated use is located.
 - 3. Overnight parking will be limited to vehicles owned and operated by the business associated with the principal use.
 - 4. Alley improvements desired by the adjacent property owner shall be approved by the City of Brainerd and improved at the requesting party's expense.

515-3-31 Recreational Vehicle Storage and other Temporary Vehicles

- A. Recreational vehicles may not be used for the storage of items in conjunction with a residential, business, commercial or industrial enterprise.
 - 1. Recreational vehicles may not be used as a residence, accessory dwelling unit, office, or business on any residential lot.
- B. Temporary trailers and facilities generated by public service agencies (bookmobiles, bloodmobile, construction trailers, etc.) are a permitted use by Administrative Permit, provided that:
 - 1. The facilities are located in a manner that does not interfere with existing traffic patterns.
 - 2. The proposed temporary use is compatible with existing surrounding land uses.
 - 3. The request has a specific term for placement and removal, subject to approval by the Zoning Administrator.
- C. Temporary real estate sale/rental trailers or offices may be allowed by Interim Use Permit, provided that:
 - 1. The temporary trailer/office is located on the site of an approved project or subdivision.
 - 2. The temporary trailer/office meets all required setbacks of the underlying zoning district.
 - 3. The temporary trailer/office provides adequate parking in accordance with Section [515-4-12] of this Ordinance.
 - 4. The site is landscaped in a manner that enhances the trailer/office subject to the approval of the Zoning Administrator.

BRAINERD, MN
Chapter 515 ZONING

5. The applicant shall provide a schedule for the removal of the trailer and reclamation of the site consistent with the approved Sketch Plan or subdivision.

D. Recreational Vehicle Storage. Recreational vehicles, as defined by Section [515-6-2] of this Ordinance, may be parked or stored on residential properties provided that:

1. The vehicles are property of the person or persons residing on the premises.
2. The vehicles are licensed and operable.
3. The vehicles are stored no closer than five (5) feet from side or rear lot lines.
4. Vehicles located in the front yard are parked on designated driveways or parking areas surfaced in compliance with Section [515-4-12] of this Ordinance.
5. Vehicles located in the front yard or side yard abutting a street shall not encroach on any public right-of-way, sidewalk, or trail.
6. In any yard, vehicles may not be placed within ten (10) feet of the living quarters of the principal building on the adjacent lot.
7. A camper or recreational vehicle brought by a visitor may be parked or occupied for a period not to exceed thirty (30) days while visiting the resident of the property.

E. Storage on Vacant Lots. In all residential and commercial zoning districts, a vacant noncontiguous lot or parcel shall not be used for storage or parking

515-3-32 Refuse/Garbage Collection, Recycling, and Incineration

A. Any refuse/garbage collection, recycling or incineration uses must comply with the following minimum standards:

1. The storage of refuse or garbage in any front yard is prohibited.
2. Vehicle parking and storage areas are screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
3. Vehicle parking/storage areas shall be hard surfaced with a bituminous material with curb and gutter to control dust and shall be screened from view of neighboring uses and public rights-of-way.
4. The site shall be maintained free of litter and any other undesirable materials and will be cleaned of loose debris on a daily basis.
5. All in bound and out bound trucks and equipment, excluding employees' personal vehicles, shall be restricted to designated routes established by the City, except for times when providing collection service to customers within the City limits.
6. The hours of operation shall be limited as necessary to minimize the effects of nuisance factors such as traffic, noise, and glare upon any existing neighboring residential uses, or residential zoning districts.
7. Provisions are made to control and minimize noise, air and water pollution.

515-3-33 Senior Housing

A. Any Senior Housing building or use must comply with the following minimum standards:

1. Not more than twenty (20) percent of the occupants may be persons 55 years of age or younger.
2. To continue to qualify for the senior housing classification, the owner or agency shall annually file with the City Clerk and/or the Zoning Administrator a certified copy of a monthly resume of occupants, listing the number of tenants by age and clearly identifying all occupants aged fifty-five (55) or under.

BRAINERD, MN
Chapter 515 ZONING

3. Parking areas shall be screened and landscaped from view of surrounding and abutting Residential Zoning Districts.
4. Elevator service must be provided to each floor of the building.
5. A minimum of 20 percent of the gross lot area must be dedicated as usable open space.

515-3-34 Short-Term Rentals

- A. Any short-term rental must comply with the following minimum standards:
1. The maximum rental period shall not be more than 28 consecutive nights.
 2. The permit holder (owner) of a short-term rental must apply for and receive an Interim Use Permit.
 3. The application for an Interim Use Permit shall include:
 - a. The number of bedrooms with dimensions and all other sleeping accommodations.
 - b. The number of off-street parking spaces available to guests.
 - c. All accessory structures and outdoor recreational features available for guest use.
 - d. A pet, garbage, noise, and parking policy.
 - e. The permit holder shall post emergency contact information (police, fire, hospital) and show renters the location of fire extinguishers in the short-term rental unit.
 4. A permit holder must disclose in writing to their renters the following information regarding property policies and City codes:
 - a. **Contact Information.** The managing agent or local contact's name, address, and phone number. The agent shall be available 24 hours a day, seven days a week, whenever the property is being rented. Property contact information will be accessible to the public at all times on the City of Brainerd website.
 - b. **Occupancy.** The maximum number of guests allowed on the property.
 - c. **Vehicles.** The maximum number of vehicles, recreational vehicles, and trailers allowed on the property and where they are to be parked. Parking in a yard that fronts a street as well as along an interior side of a house is required to be on an improved surface. Recreational vehicles shall not be parked in any right-of-way or utility easement. No vehicle or trailer shall be parked on a street for a period of time in excess of forty-eight (48) continuous hours.
 - d. **Garbage.** Garbage and refuse containers shall be placed out for collection no earlier than 6:00 P.M. the day before collection and removed by the end of the day of collection. Garbage shall be placed in fly tight containers sufficient to receive all garbage which may accumulate between times of collection.
 - e. **Noise.** No person shall, between the hours of 10:00 P.M. and 7:00 A.M. congregate at, or participate in the any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person.
 - f. **Pets.** No person shall keep, maintain, or otherwise house more than a total of four cats or dogs within any household in the City of Brainerd. It shall be unlawful for any person to allow a dog or cat to run at large and to keep or harbor a dog that habitually barks, yelps, howls, cries, or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The owner of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner.
 5. The occupancy of a short-term rental shall be limited to not more than 3 people per bedroom or the occupancy set by the Building Official, whichever is less.

BRAINERD, MN
Chapter 515 ZONING

6. Rooms used for sleeping shall be provided with egress windows and smoke detectors in locations that comply with the Minnesota State Building Code or the requirements of the building department, whichever is stricter.
7. The short-term rental shall be connected to city sewer and water or an approved septic system. A valid septic system certificate of compliance is required at the time of rental license issuance and annual renewal. A short-term rental shall have a full bathroom (sink, toilet, and tub or shower).
8. Additional occupancy by use of recreational vehicles, tents, accessory structures, or fish houses is not permitted.
9. The permit holder shall keep a report, detailing use of the short-term rental by recording the full name, address, phone number and vehicle license number of the guest reserving the rental. A copy of the report shall be provided to the Zoning Administrator upon request.
10. A short-term rental shall be a licensed rental unit by the city and shall meet the requirements of all statutes, rules, regulations, and ordinances including, but not limited to the City of Brainerd's rental housing maintenance code. Each unit shall be inspected annually by the rental housing inspector and the Fire Marshall.
11. The Planning Commission may impose conditions that will reduce the impacts of the proposed use on neighboring properties, public services, nearby water bodies, public safety, and safety of renters. Said conditions may include but not be limited to – fencing or vegetative screening, native buffer along the shoreline, noise standards, duration of permit, restrictions as to the docking of watercraft, and number of renters.
12. A permit holder must post their rental license permit number on all print, poster, or web advertisements.
13. It is the owner's responsibility to apply for state and local sales tax numbers, including hotel and motel use sales tax. It is the owner's responsibility to contact the Minnesota Department of Health about lodging license requirements.

515-3-35 Signs

A. **Findings, Purpose, and Intent.** It is not the purpose or intent of this Sign Ordinance to regulate the message displayed on any sign, nor is it the purpose or intent of this Ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this Ordinance is to:

1. The City Council hereby finds as follows:
 - a. Signs provide an important medium through which individuals may convey a variety of messages.
 - b. Exterior signs have a substantial impact on the character and quality of the environment.
 - c. Signs can create traffic hazards, aesthetic concerns, and detriments to property values, thereby threatening the public health, safety, and welfare.
 - d. As defined by Section [515-6] of this Ordinance, a sign is any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
 - e. The City's zoning regulations have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.

BRAINERD, MN
Chapter 515 ZONING

2. The purpose and intent of this Ordinance is to:
 - a. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the City in order to promote the public health, safety, and welfare.
 - b. Maintain, enhance, and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.
 - c. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
 - d. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.
- B. **Effect.** A sign may be erected, mounted, displayed, or maintained in the City if it is in conformance with the provisions of this Ordinance. The effect of this Ordinance, as more specifically set for herein, is to:
 1. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this Sign Ordinance.
 2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this Sign Ordinance.
 3. Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment and where the communication can be accomplished by means of having a lesser impact on the environment and the public health, safety, and welfare.
 4. Provide for the enforcement of the provisions of this Sign Ordinance.
- C. **Severability.** If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this sign Ordinance. The City Council hereby declares that it would have adopted the sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.
- D. **Permit Required.** No sign shall be erected, altered, improved, reconstructed, maintained, or moved in the City without first securing a Sign Permit from the City:
 1. The content of the message or speech displayed on the building and/or sign shall not be reviewed or considered in determining whether to approve or deny a Sign Permit.
 2. Application for an Administrative Permit shall be filed by the property owner or designated agent with the City on forms to be provided by the City.
 3. Application for a Permit shall contain the following information unless waived by the City:
 - a. Names and addresses of the applicant owners of the sign and lot.
 - b. Address at which any signs are to be erected.
 - c. Lot, block, and addition at which the signs are to be erected and the street on which they are to front.
 - d. Type and size of sign (e.g., wall sign, pylon sign, monument sign).
 - e. A Sketch Plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs, and any other physical features.
 - f. Inventory of existing on-site signage (size, height, location).
 - g. Plans, location and specifications and method of construction and attachment to the buildings or placement method of the ground.
 - h. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and Ordinances of the City.

BRAINERD, MN
Chapter 515 ZONING

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

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

1. The changing of the display surface on an existing sign.
2. Signs, subject to the following:
 - a. Signs shall only be located on private property with the permission of the property owner.
 - b. Signs shall be placed no less than fifteen (15) feet from the back of the curb and shall not be within the sight visibility triangle or located within the Right-of-Way.
 - c. Ground mounted signs shall not exceed six (6) square feet in area and shall not exceed three (3) feet in height.
 - d. No more than two (2) ground mounted signs and two (2) flags are allowed per property.
 - i. Additional signs are permitted beginning forty-six (46) days before the State primary in a State general election year until ten (10) days following the State general election, and ninety-one (91) days prior to any special election until ten (10) days following the special election.
 - e. Signs shall not be illuminated.
3. One (1) temporary off-premises sign on private property six (6) square feet or less in size, not to exceed three (3) feet. Temporary signs shall be allowed for a period of seven (7) days.
4. Signs located within the public right-of-way are regulated by Chapter [VIII] of the City Code.
5. Official signs.

F. Prohibited Signs. The following signs are prohibited:

1. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

BRAINERD, MN
Chapter 515 ZONING

2. All signs over three hundred (300) square feet in area.
3. All off-premises signs greater than six (6) square feet in area.
4. Changeable copy signs, except as specifically allowed by Subsection [J].
5. Content classified as "obscene" as defined by Minnesota State Statutes Section [617.241].
6. Flashing or rotating signs.
7. Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.

G. Violations. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any of the provisions of this Ordinance shall, upon conviction thereof, be guilty of a petty misdemeanor. Persons violating this Section may be fined in addition to other penalties for Ordinance violations allowed by this Ordinance. Any sign violation of this Section may be subject to immediate removal by the City, at the expense of the owner, without notice to the property owner or owner of the sign if different than the property owner. Each day that the violation continues is a separate offense.

1. This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute in the name of the City any appropriate actions or proceedings against a violator.
2. Inspection. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator.
3. The City reserves the right to require the removal at the owner's expense of any sign when the requirements of this Section are not completely followed and adhered to, or if a sign is not properly maintained or falls into a state of disrepair. The City shall not have any obligation or liability to replace any sign when removed by the City.

H. Substitution. The owner of any sign which is otherwise allowed by this sign Ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. Conversion back to commercial copy is permitted as allowed in each Zoning District. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

I. General Regulations.

1. All freestanding and monument signs shall be set back three (3) feet from any property line and outside of the site visibility triangle. No portion of the sign shall extend into the public right-of-way or an easement.
2. Wall signs may extend no more than 24 inches from the building façade and may encroach into the public right-of-way where there is a zero-building setback.
3. The installation of electrical signs shall be subject to the State Electrical Code. Electrical service to a freestanding sign shall be underground.
4. No sign shall be attached or be allowed to hang from any building until all necessary wall attachments have been approved by the City Building Official.
5. No signs, guys, stays or attachments shall be erected, placed, or maintained on trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.
6. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the driver and may not interfere with or obscure traffic signs or signals. Lighting may not illuminate any adjacent properties, buildings, or streets.
7. Portable signs which are designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed are permitted within GC, CC, ME, and GI Zoning Districts subject to the following:

BRAINERD, MN
Chapter 515 ZONING

- a. A Sign Permit is issued for the sign that shall require a non-refundable fee as set by Ordinance, together with a bond or cash deposit is issued for the sign.
 - b. In the event the sign is not removed within two (2) business days of the permit expiration date, the bond or cash deposit shall be forfeited as a penalty.
 - c. Permits shall be for periods not to exceed 60 consecutive days of each 90-calendar day period for one premises, or a total of 120 days in a calendar year.
 - d. One (1) temporary sign is allowed on the premises at one time.
 - e. Temporary signs permitted by Subsection [D] of this Ordinance shall be exempt from the requirements of this Section.
8. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
9. A freestanding sign or sign structure constructed so that the faces are not back-to-back, shall not have an angle separating the faces exceeding twenty degrees (20°) unless the total area of both sides added together does not exceed the maximum allowable sign area for that District.
10. The area within the frame of a sign shall be used to calculate the square footage except that the width of a frame exceeding twelve (12) inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six (6) inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures, or other forms of graphics painted on walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.
11. The top of a wall sign, including its superstructure, if any, shall be no higher than the top of the roof of the building to which such sign may be attached.
12. Projecting signs may be allowed in commercial districts provided that:
- a. There is a minimum of eight (8) feet of clearance under the base of the sign to the ground below.
 - b. The sign does not project more than five (5) feet beyond the wall to which it is mounted, may not project over any vehicular drive aisle or traveled portion of a public or private street and may not project over a public right-of-way except within the TC and MS Zoning Districts.
 - c. The area of the projecting sign is not more than fifty (50) percent of the maximum area allowed for an individual wall sign in the respective zoning district in Subsection [J.9 and J.10] of this Subsection.
13. Roof signs shall be allowed in commercial and industrial districts provided that:
- a. The height of the sign shall not exceed the height of the roof.
 - b. The sign design shall be consistent with the building character and integrated into the building architecture.
14. Signs are not allowed to encroach into or over MnDOT right-of-way.
- J. District Regulations.** In addition to the signs allowed by this Subsection, the following signs shall be allowed within the specific Base Zoning Districts:
1. Non-residential uses within the RL, GL, CN and TN Base Zoning Districts.
 - a. Except for the uses specified in Appendix A: Table of Uses, one (1) sign shall be allowed per parcel provided that:
 - i. The total area of the sign shall not exceed thirty-two (32) square feet.

BRAINERD, MN
Chapter 515 ZONING

- ii. A freestanding sign shall be limited to a maximum height of six (6) feet.
2. Signs shall be allowed for a subdivision or multiple family development of five (5) or more lots or dwelling units provided that:
 - a. One (1) sign shall be allowed at each street entrance. Entrances less than one hundred (100) feet apart are not permitted individual entrance signs.
 - b. The area of each sign shall not exceed twenty-four (24) square feet.
 - c. Freestanding signs shall be limited to a maximum height of six (6) feet.
 - d. Illumination of the sign shall be as regulated in [I.6.] of this Subsection.
 - e. For sign(s) requiring regular long-term maintenance, the sign(s) shall be located on common space of sufficient size and area to accommodate said structure. The property owner or association shall be responsible for maintenance of the sign.
 - f. One (1) wall sign up to sixteen (16) square feet is permitted for each multifamily development.
 - g. The area around the sign shall be landscaped in such a manner to accent and enhance the sign while remaining sensitive to the natural features of the site. Detailed site and landscape plans shall be included with each sign permit application and shall be subject approval by the Zoning Administrator.
 - h. The design and construction of area identification signs shall be done with the highest commercial quality materials and workmanship to keep maintenance and upkeep costs to a minimum and to minimize the potential for vandalism. Area identification signs are to be aesthetically pleasing when designed and constructed. The sign shall be compatible with nearby structures in the area. Detailed construction plans and a materials list shall be included with each Sign Permit application and shall be subject approval by the Zoning Administrator.
3. Additional signs shall be allowed upon approval of a Final Plat for a subdivision having not less than five (5) lots provided that:
 - a. One (1) sign shall be allowed per project or subdivision or one (1) sign for each frontage to a public street, whichever is greater.
 - b. The area of the sign shall not exceed thirty-two (32) square feet.
 - c. Freestanding signs shall be limited to a maximum height of eight (8) feet.
 - d. The sign shall not be displayed for a period to exceed twenty-four (24) months from the date a permit is issued for the sign or until building permits have been issued for eighty-five (85) percent of the lots or dwelling units within the subdivision, whichever is less restrictive.
4. Government buildings and structures, public, quasi-public or private recreation buildings, public parks and recreation areas, public and private educational institutions limited to accredited elementary, middle, senior high schools, or colleges and universities, and places of worship shall be allowed the following signs:
 - a. Not more than two (2) wall signs shall be permitted on the front wall. The combined total area of such sign or signs shall not exceed the lesser of fifteen (15) percent of the area of the front face (including doors and windows).
 - b. For each principal building on a lot, there shall not be more than one (1) freestanding monument sign except on a corner lot where two signs, one facing each street, shall be permitted. No such signs shall exceed one hundred (100) square feet in area. Monument signs may not exceed twelve (12) feet in height. The monument sign may include a changeable copy sign as part of the allowable sign area.
5. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within the Base Zoning District.
6. No more than one (1) changeable copy sign per parcel.

BRAINERD, MN
Chapter 515 ZONING

7. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
8. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
 - a. Temporary signage is subject to the provisions of Subsection [D and I] of this Ordinance.
9. Within the TN-2 District the following additional regulations shall apply:
 - a. All residential use regulations in accordance with Appendix A: Table of Uses.
 - i. Each parcel shall be allowed one (1) wall sign up to two (2) square feet in area and one (1) freestanding sign up to 12 square feet in area.
 - ii. The height of a freestanding sign shall not exceed six (6) feet.
10. Within the [CC, GC, MS, TC, ME, GI] Districts the following additional regulations shall apply:
 - a. The total area of building signs displayed on a parcel shall not exceed 15 percent of the building façade on which the sign is to be located fronting not more than two (2) public streets.
 - b. A 100 square foot sign up to 25 feet tall is permitted for a parcel with street frontage of 100 feet or less.
 - i. In CC and GC Zoning Districts, one (1) square foot of sign area may be added to the permitted 100 square foot sign area for each one (1) foot of street frontage over 100 feet. A sign up to 300 square feet is permitted.
 - ii. Parcels in CC and GC Zoning Districts with more than 300 feet of street frontage may have one (1) additional sign for each additional 300 feet of street frontage. Signs shall be located at least 300 feet apart.
 - c. Sign area for parcels permitted more than one (1) sign is equal to the total feet of street frontage. If more than one (1) sign is used, the total sign area allowed shall be distributed between permitted signs.
 - d. Each sign shall be 300 feet apart and each sign may not exceed 300 square feet in area.
 - e. Signs shall be located on the street frontage for which its sign area is determined.
11. Wall, Canopy and Marquee Signs. Wall, canopy, or marquee signs may occupy up to fifteen (15) percent of a building façade fronting a public street or alley. Up to an additional 16 square feet may be used for awning signs.
12. Awning or Canopy Signs. Letters may be painted or otherwise affixed to any permissible awning or canopy as follows:
 - a. One sign per canopy fascia fronting onto a public street.
 - b. Be within the physical dimensions of the awnings or canopy fascia.
13. Accessory signs to gas sales in conjunction with automobile service stations or convenience stores are permitted provided that:
 - a. *Gasoline and Price Sign*. One (1) sign (single or double faced) per frontage on a public street, suitable for apprising persons of the total sign price per gallon. The area of such price sign shall not exceed 16 square feet on either side. Each such sign shall be affixed to the standard of a ground sign or light fixture and shall state the total price. No sign posting an incomplete price or less than the total sales price is permitted.
 - b. Signs denoting operating instructions associated with self-service gas facilities including gas pump, air supply and car washes are exempt from the maximum sign area standards of this Subsection.
14. Changeable Copy Signage.
 - a. The changeable copy sign may be a wall, freestanding, or monument sign. The changeable copy sign area shall be counted as part of the total sign area allowed within a respective Zoning District.

BRAINERD, MN
Chapter 515 ZONING

- b. No more than one (1) changeable copy sign per parcel.
 - c. A dimmer switch shall be installed which limits illumination brilliance of the sign during nighttime hours to no more than five hundred (500) lumens. Nighttime hours shall be considered to be from dusk to dawn.
 - d. Minimum height of the sign shall be eight (8) feet as measured from grade to the bottom of the sign.
15. In addition to the freestanding sign allowed by this Subsection, convenience food uses with drive through facilities may display additional signs, provided that:
- a. Not more than one (1) sign is allowed.
 - b. The sign shall be single sided with an area not to exceed fifty (50) square feet.
 - c. The height of the sign shall not exceed six (6) feet including its base or pole measured from grade to the top of the structure.
 - d. The sign shall not encroach into any principal building setback and shall be located directly adjacent to the drive through aisle and oriented in such a manner so that the sign provides information to the drive through patrons only and does not impair site visibility or obstruct circulation.
16. Multiple Occupancy Commercial and Industrial Buildings including Business/Commercial Centers:
- a. Except as provided for in this Subsection, individual tenants of a multiple occupancy building within a commercial or industrial zoning district may display separate wall, canopy, or marquee signs when a tenant's business has an exclusive exterior entrance subject to the following requirements:
 - i. The number of wall signs shall be limited to one (1) per tenant space, except one (1) sign per exterior wall may be displayed for the tenant of a corner suite or a suite that extends through a building this having two (2) exterior walls facing a public right-of-way.
 - ii. The total area of all wall signs shall not exceed fifteen (15) percent of the tenant bay.
 - iii. Signs shall be located on the exterior wall of the tenant space to which the Sign Permit is issued but are not required to face a public street.
 - b. In addition to wall and free-standing signs, canopy and marquee signs are allowed provided that:
 - i. Occupy up to an additional sixteen (16) square feet on a building façade fronting a public street or alley.
 - ii. Letters are painted or otherwise affixed to any permissible awning or canopy as follows:
 - a. One (1) sign per canopy fascia fronting onto a street.
 - b. Be within the physical dimensions of the awnings or canopy fascia.
 - c. Business/Commercial Centers may erect one (1) free standing sign per street frontage, not to exceed two (2) freestanding signs per site (single or double faced).
 - d. Changeable copy signs are allowed in accordance with this Subsection.

K. Non-Conforming Signs. A nonconforming sign lawfully existing upon the effective date of this Section shall be regulated in accordance with this Section.

515-3-36 Specialty Food Shop

- A. Specialty Food Shops with, or without, a drive-up window and/or with or without outdoor seating must comply with the following minimum standards:
- 1. Coffee beans cannot be roasted on site.
 - 2. Adequate screening from abutting residential uses and landscaping must be provided.

BRAINERD, MN
Chapter 515 ZONING

3. Adequate off-street parking and access must be provided on the site to serve the business. Off-street parking may be provided on lots directly abutting or directly across a public street or alley to the principal use. Off-street parking must be adequately screened and landscaped from surrounding and abutting residential uses.
4. Adequate off-street loading and service entrances must be provided.

515-3-37 Storage, Utilization or Manufacture of Materials that Could Decompose by Detonation

- A. Any storage, utilization of manufacturing of materials that could decompose by detonation must comply with the following minimum standards:
1. The use must demonstrate compliance with all applicable Minnesota Pollution Control Agency Requirements are satisfactorily met.
 2. Storage areas must be landscaped, fenced, and screened from the view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
 3. Vehicular access points shall create minimum conflict with through traffic movement and shall be subject to approval of the City Engineer.
 4. Provisions must be made to control and minimize noise, air, and water pollution.

515-3-38 Temporary/Seasonal Outdoor Sales and Promotional Events

- A. Any temporary/seasonal outdoor sales and/or promotional events must comply with the following minimum standards:
1. Such activity must be targeted toward the general public which may include, but is not limited to, grand openings, warehouse sales, sidewalk sales, inventory reduction and liquidation sales, and seasonal merchandise sales.
 2. The maximum term of the event may not exceed 14 consecutive days, with a maximum of four (4) permits per calendar year for each use. Consecutive permits may be issued.
 3. No portion of the use shall take place within any public right-of-way.
 4. Parking and display areas associated with the use shall not distract or interfere with existing business operations or traffic circulation patterns.
 5. Display areas and parking spaces shall use those parking lot spaces that are in excess of the minimum required parking for the primary use of that property.
 6. The site shall be kept in a neat and orderly manner and display of items shall be as compact as possible so as to not interfere with existing business, parking or driveway operations.
 7. Sales products, trailers, temporary stands, etc. shall be located on an asphalt or concrete surface.
 8. Temporary outdoor seasonal sales uses may have one (1) on-site temporary sign not to exceed 24 square feet in area and not more than six (6) feet in height.
 9. A daily cleanup program must be reviewed and approved as part of the Permit process.

515-3-39 Transient Food Unit

- A. **Established Boundaries and Permitted Hours of Operation.** Transient Food Units are permitted to operate on any Non-Residential Zoning District as identified on Appendix A Table of Uses. Transient Food units are also permitted to operate on property owned by Central Lakes College, the Franklin Arts Center, and Independent School District 181 regardless of Base Zoning District.
1. Transient food unit hours of operation shall be limited to 7:00 am to 11:00 pm.

BRAINERD, MN
Chapter 515 ZONING

- B. Relationship to other Applicable Regulations.** Property located within a PUD Overlay District shall be subject to the provisions of the Base Zoning District.
- C. Permitted Uses.** Transient food units including trucks, trailers, wagons, carts, seasonal temporary food stands, etc. are allowed on public and private property subject to the following:
1. Only food and non-alcoholic beverages can be sold.
 2. At least one (1) trash receptacle with a tight-fitting lid shall be provided.
 3. Operators must clean around their unit at the end of each day.
 4. Operator cannot call attention to themselves by crying out, blowing a horn, ringing a bell, and playing music or other noise discernable beyond the unit.
 5. Units must be kept in good repair and order and have a neat appearance.
 6. Electrical cords and hookups to public utilities are not permitted.
 7. Liquids from a food unit cannot be drained onto public property.
 8. Generators must be self-contained and fully screened from view and not exceed 70 dbs.
 9. Exterior lighting that will call attention to the setup is not permitted.
 10. Follow applicable Department of Health regulations.
 11. Copies of all required state licenses and insurance coverage.
 12. One "A" frame sign not exceeding 12 square feet per side is permitted during operation.
 13. Property owner written approval is required.
 14. Units cannot be left unattended nor remain at an authorized operating location outside allowed hours of operation.
 15. Sales cannot be made to individuals parked or stopped in a public street or alley. Sales to customers on a sidewalk are not allowed.
 16. Units cannot locate within 300 feet from the property perimeter of any festival (including the Crow Wing County Fairgrounds), sporting event and civic event unless a license is issued to be a part of the festival or event.
 17. Proof of liability insurance is provided in accordance with City of Brainerd requirements.
 18. Transient food units are permitted to operate during festivals and community events provided it is approved by City of Brainerd as part of a festival and community events permit.
 19. Sales are permitted in a City park when approved by City of Brainerd Parks and Recreation Board.
 20. Maximum number of units per property:
 - a. Two (2) food trucks on lots of one-half acre or less.
 - b. Three (3) food trucks on lots between one-half acre and 1 acre.
 - c. Four (4) food trucks on lots greater than 1 acre.
 21. A primary use must be operating on the property in order for food unit operations to be allowed.

515-3-40 Truck Terminals

- A. Any truck terminal must comply with the following minimum standards:
1. Vehicular access points must be located along arterial streets, and the minimum number of access points needed for safe ingress/egress shall be provided. The number of access point must be designed and

BRAINERD, MN
Chapter 515 ZONING

constructed to create a minimum of conflict with through traffic movement. Such access locations shall be subject to review and approval by the City Engineer.

2. A drainage system subject to the approval of the City Engineer shall be installed.
3. Storage areas are landscaped, fenced, and screened from view of neighboring uses, abutting Residential Zoning Districts and public rights-of-way.
4. Provisions must be made to control and minimize noise, air, and water pollution.

515-3-41 Warming Shelters

A. Any Warming Shelter must comply with the following minimum standards:

1. Operation may not exceed 16 continuous hours.
2. Facility occupancy shall not exceed 30 beds or total occupancy of facility as set by the Fire Marshall, whichever is less.
3. Facility shall be staffed during all hours of operation.
4. 24-hour contact information shall be provided to the City of Brainerd Police Department and Crow Wing County Community Services Department.
5. Except for bicycle racks, outdoor storage of equipment, furniture, personal items, or other such possessions of those using the facility is not permitted.
6. Facility shall meet all applicable building, safety, fire, and health code requirements.

515-3-42 Wireless Antennas and Towers

A. **Purpose and Intent.** The purpose of this Section is to establish predictable and balanced regulations for the location and screening of wireless communications equipment in order to accommodate the growth of wireless communication systems within the City of Brainerd while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of the Section are intended to maximize the use of existing towers, structures, and buildings to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community.

B. **Definitions.** For the purposes of this article, the following definitions apply:

Abandonment means cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this article.

Accessory equipment means any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.

Antenna means communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

Base station means the equipment and non-tower supporting structure at a specific site authorized to communicate between user equipment and a communications network, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

Close mount shall mean and refer to mounting of the antenna array and or any part of the wireless facility with mounting techniques where the components do not protrude from the face of the structure by more than 18 inches.

Co-location shall mean and refer to the mounting or installation of transmission equipment for multiple

BRAINERD, MN
Chapter 515 ZONING

telecommunication providers on one eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Concealed/stealth wireless facility means any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

Eligible facilities request means a request for modification of an existing wireless tower or base station that involves co-location of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment but does not include a substantial modification.

Engineered fall zone means the area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Equipment compound means an area surrounding or near the base of a wireless support structure within which are located wireless facilities.

Existing structure means an existing wireless support structure, that is capable of supporting the attachment of wireless facilities. The term includes, but is not limited to, electrical transmission towers, buildings, and water towers.

FCC shall mean and refer to the Federal Communications Commission or its successor.

Lattice type towers refers to the type of tower that has three or more legs that are spread at the bottom to transfer the lateral loads of the tower to the ground without the use of guy wires. The legs are connected to each other through a series of diagonal cross members that create a lattice work of steel.

Monopole means a single, freestanding pole-type structure supporting one or more antennas. For the purposes of this article, a monopole is not a tower or a utility pole.

Ordinary maintenance means ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color, and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include adding additional antennas or transmitter/receivers, nor making substantial modifications to existing wireless facilities.

Replacement pole means a pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

Roof top or exterior façade mounted facilities means the placement of the whole or part of a wireless facility on an existing building roof or exterior face.

Self-supporting tower means typically a tower that is supported without the use of guy wires. Includes lattice and monopole type towers.

Site means for towers, monopoles, or concealment type structures, other than structures in public right-of-way, referring to the current boundaries of the leased or owned property surrounding the tower, monopole, any access, or utility easements currently related to the site, and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already

BRAINERD, MN
Chapter 515 ZONING

deployed on the ground.

Substantial modification means the mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure or existing wireless facilities as defined by the FCC.

Tower means a lattice-type structure, guyed or freestanding, that supports one or more antennas.

Utility pole means a structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

Wireless facility or *wireless facilities* means the set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

Wireless support structure means a freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility or light poles.

Wireless transmission equipment means any equipment that facilitates transmission for any authorize wireless communication service including backup power.

C. General Standards. The following standards shall apply to all personal wireless service telephone, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antenna.

1. All obsolete and unused antennas and towers shall be removed within twelve (12) months of cessation of operation at the site by the antenna or tower owner unless an exemption is granted by the Zoning Administrator. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associate facilities when they are abandoned, unused or become hazardous shall be submitted to the City.
2. All antennas and towers shall be in compliance with all State Building and Electrical Code requirements and as applicable shall require related permits. Applications to erect new antennas and/or towers shall be accompanied by any required Federal, State, or local agency licenses.
3. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and as may be necessary, as determined by the City Engineer, shall be verified and approved by a professional engineer.
4. When applicable, written authorization for antenna and/or tower erection shall be provided by the property owner.
5. No message shall be affixed to the antenna and/or tower structure.
6. Antennas and/or towers shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
7. Towers shall be painted a non-contrasting color consistent with the surrounding area such as blue, gray, brown, or silver or have a galvanized finish to reduce visual impact, unless otherwise required by a governmental agency.
8. All antennas and towers shall be reasonably posted and secured to protect against trespass, including appropriate measures to prevent unauthorized persons from climbing any tower.
9. Towers shall comply with all applicable Federal Aviation Administration (FAA) regulations.

BRAINERD, MN
Chapter 515 ZONING

10. Amateur radio towers shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
11. Except as may be applicable in a case where a Conditional Use Permit is required, antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service shall be exempt from the following: Subsections [C.10, E and G].

D. Applicability and Exemptions.

1. All legally permitted wireless telecommunications facilities constructed as permitted uses, existing on or before _____ 2017, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section. Any repair, maintenance or replacement of a wireless telecommunication facility that does substantially change the facility does not require an application for a Conditional Use Permit but does require an Administrative Permit.
2. The following shall be exempt from the requirements of this Section:
 - a. Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
 - b. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio, and other similar non-commercial telecommunications.
 - c. Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11A, B, G (Wi-Fi) and Bluetooth) where the facility does not require a new wireless support structure.

E. Location Standards.

1. Wireless telecommunications facilities shall be located, sited, and erected in accordance with the following priorities, a. being the highest priority and b. being the lowest priority:
 - a. On existing towers, monopoles, buildings, or structures on City owned property, if permitted.
 - b. On existing towers, monopoles, buildings, or other structures on other property in the City.
 - c. A new concealment/stealth wireless support structure on City owned property.
 - d. A new wireless support structure on City owned property.
 - e. A new concealment/stealth wireless support structure on property in any Zoning District.
 - f. A new wireless support structure on property in the Makers + Employment (ME) or General Industrial (GI) Zoning Districts.
 - g. A new wireless support structure on property in the Commercial Corridor (CC), Town Center (TC) or General Commercial (GC) Zoning Districts.
 - h. A new wireless support structure on property in the Main Street (MS) or Traditional Neighborhood 2 (TN-2) Zoning District.
 - i. A new wireless support structure on property in the Rural Living, Garden Living, Contemporary Neighborhood or Traditional Neighborhood 2 (TN-1) Zoning Districts.
2. If the location proposed is not the highest priority location listed in A. above, the location proposed shall not be approved unless the applicant establishes that there are no sites available in a higher priority location that meet the requirements of this Section and the technical requirements for the proposed

BRAINERD, MN
Chapter 515 ZONING

wireless telecommunications facility. Economic considerations shall not be a factor in determining whether a higher priority location is available.

3. An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial practical difficulty.
4. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
5. The City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

F. Certification, Inspection and Maintenance.

1. All towers, antenna support structures, and related equipment or structures shall be kept and maintained in good condition, order, and repair so as not to menace or endanger the life or property of any person.
2. All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the State Building Code and Federal and State law.
3. The City shall have authority to enter onto the property upon which a tower is located to inspect the tower for the purpose of determining whether it complies with the State Building Code and all other construction standards provided by the City's Code, Federal and State law. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the owner. All expenses related to such inspecting by the City shall be borne by the owner.

G. Co-Location Design Requirement. An application for a new tower 50 feet in height or less shall not be approved unless the applicant demonstrates that the antennas cannot be constructed on an existing building or structure within a one half (1/2) mile radius of a proposed tower site.

1. Any tower more than 50 feet in height shall not be approved unless the applicant demonstrates that the antennas cannot be constructed on an existing tower, building, or structure within a two (2) mile radius of the proposed tower site due to one (1) or more of the following reasons:
2. The planned equipment would exceed the structural capacity of the existing tower, building, or structure as documented by a qualified and licensed professional engineer, and the existing tower, building or structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost or the owner of the structure or building refuses to agree to the necessary reinforcement or modifications.
3. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer and interference cannot be prevented at a reasonable cost.
4. Other unforeseen reasons that make it not feasible to locate the antennas upon an existing or approved tower or structure.
5. Existing or approved towers, buildings, or other structures do not exist in the search area or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs of the users.
6. The applicant shall demonstrate that compliance with subparagraphs 1. through 5. above was attempted, but an agreement could not be reached.

H. Accessory Antennas. The following standards shall apply to all accessory antennas including radio and television receiving antennas, satellite dishes, TV Receive Only (TVRO) three (3) meters or less in diameter,

BRAINERD, MN
Chapter 515 ZONING

short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers.

1. Accessory antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements and shall be set back a minimum of five (5) feet from all lot lines.
2. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements and shall be set back a minimum of one (1) foot from all lot lines.
3. Accessory antennas and necessary support structures, monopoles or towers may extend a maximum of 15 feet above the normal height restriction for the affected Base Zoning District, except support structures and antennas used in the amateur radio service may extend a maximum of two (2) times the normal height restriction for the affected zoning district.

I. New Tower Design Requirements.

1. All new towers in excess of 120 feet shall be structurally designed to accommodate at least 3 additional antenna arrays.
2. All new towers between 80 feet to 120 feet shall be structurally designed to accommodate at least 2 additional antenna arrays.
3. All new towers between 40 feet to 79 feet shall be structurally designed to accommodate 1 additional antenna array.
4. Each future antenna array shall be of sufficient design to accommodate an antenna array equal to those of a typical fully developed wireless carrier site and at least equal to the size of array the applicant is installing. Future arrays should be planned to be located as close to the applicant's antenna as possible without causing interference.
5. Each new tower shall be designed to extend an additional 20 feet in height but not exceeding the height limitations of Section [J]. Design shall include a foundation sufficient in size to accommodate the additional height and weight and a mechanical connection to fasten the extra length of tower structure. This extension can be utilized to plan for the addition one (1) of the future antenna arrays required in Subsection [G] above.
6. These co-location design requirements may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially not practical or would compromise the stealth characteristics of the tower structure.

J. New Towers.

1. New guyed towers are prohibited in All Zoning Districts.
2. General Industrial Zoning District.
 - a. All self-supporting and concealment/stealth type towers are allowed as a permitted use.
 - b. Maximum build height of 179 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone plus 20' or height of the tower plus 20' if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the zoning district within which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require Zoning Approval, and comply with the following standards:
 - i. Antennas mounted on buildings or structures shall not extend more than fifteen (15) feet above the structural height of the building or structure to which they are attached.

BRAINERD, MN
Chapter 515 ZONING

- ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
- 3. General Business, Commercial Corridor, and Town Center Zoning Districts.
 - a. Close mount monopoles or concealment/stealth types of towers are allowed with a Conditional Use Permit.
 - b. Maximum build height of 50 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone plus 20 feet or height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the zoning district in which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require Zoning Approval, and comply with the following standards:
 - i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
- 4. Rural Living Districts.
 - a. Monopoles and concealment/stealth type of towers are allowed with a Conditional Use Permit.
 - b. Maximum build height of 179 feet.
 - c. Tower setback shall be at least the distance of the engineered fall zone or height of tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
 - d. Any accessory structure associated with these structures shall be located so as to comply with the applicable minimum setback requirements for the Base Zoning District in which it is located.
 - e. Personal wireless service telephone antennas as a permitted secondary use may be located upon an existing structure or collocated on an existing tower, require an Administrative Permit, and must comply with the following standards:
 - i. Antennas mounted on buildings or structures shall not extend more than 15 feet above the structural height of the building or structure to which they are attached.
 - ii. Wall or façade mounted antennas may not extend more than five (5) feet above the cornice line and must be constructed of a material or color which matches the exterior of the building.
 - f. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, and no-climbing security measures shall be provided on the tower or support structure.
 - g. Minimum size of parent property for a new wireless support structure to be located in is 10 acres.
- 5. Residential Zoning Districts.

BRAINERD, MN
Chapter 515 ZONING

- a. Eligible properties to build new wireless support structures are restricted to institutional and public uses within the Residential Zoning Districts.
- b. Concealment/stealth types of towers are allowed with a Conditional Use Permit.
- c. Maximum height of the tower is 40 feet.
- d. Tower Setback shall be at least the distance of the engineered fall zone plus 20 feet or the height of the tower plus 20 feet if no acceptable engineered fall zone documentation is presented.
- e. Any accessory structure associated with these structures shall be located to comply with the applicable minimum setback requirements for the zoning district in which it is located.

K. New Antennae.

1. New antennae as a permitted secondary use shall require an Administrative Permit and shall comply with the following standards:
 - a. The applicant shall demonstrate to the satisfaction of the City that location of the antennas as proposed is necessary to provide adequate portable personal wireless service telephone coverage and capacity to areas which cannot be adequately served by locating the antennas on an existing tower or support structure.
 - b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:
 - i. Towers with a maximum capacity to support two (2) antennas shall not exceed one 140 feet in height. Towers with a minimum capacity to support three (3) antennas shall not exceed 160 feet in height.
 - ii. The setback of the tower from the nearest property line is not less than the height of the antenna. Exceptions to such setback may be granted in such cases when a qualified structural engineer specifies in writing that any failure of the pole will occur within a lesser distance under all foreseeable circumstances. The setback shall not be reduced in cases where the subject site abuts a Residential Zoning District. The setback requirements shall not be reduced below the minimum accessory building setback requirements of the Base Zoning District or the failure area of the tower, whichever is greater.
 - iii. Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving, and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - iv. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.
 - c. Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building or cabinet is necessary for transmitting, receiving, and switching equipment, it shall be situated in the side or rear yard of the principal use, meet all applicable necessary building setback requirements, and shall be screened from view by landscaping where appropriate.
 - d. At the discretion of the City, a security fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure, as well as no climb security measures shall be provided on the tower or support structure.

L. Temporary Mobile Towers.

BRAINERD, MN
Chapter 515 ZONING

1. Personal wireless service antennas located upon a temporary mobile tower as a permitted secondary use may be used on an interim basis until a permanent site is constructed shall require Zoning Approval and shall comply with the following standards:
 - a. Temporary mobile towers are exempt from collocation and permanent tower structure design standards.
 - b. The termination date of the permit shall not exceed 120 days. Temporary mobile towers located on a site longer than 120 days shall require the processing of an Interim Use Permit.
 - c. Guyed towers are prohibited.
 - d. Mobile units shall have a minimum tower design wind load of 80 miles per hour or be set back from all structures a distance equal to the height of the tower.
 - e. All towers shall be protected against unauthorized climbing.
 - f. The height of the tower shall not exceed 100 feet.

M. Commercial and Public Radio and Television Transmitting Antennas, and Public Utility Microwave Antennas.

1. Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:
 - a. Such antenna shall be considered an allowed Conditional Use within the General Industrial Zoning District.
 - b. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
 - c. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight (8) feet in height with a maximum opacity of 50 percent shall be provided around the support structure and other equipment, as well as no climb security measures shall be provided on the tower or structure.