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**BRAINERD  
SUBDIVISION AND PLATTING  
ORDINANCE**

AN ORDINANCE AUTHORIZING THE ADOPTION OF PROCEDURES FOR SUBDIVISION AND PLATTING OF LAND, PROVIDING FOR THE ORDERLY, ECONOMIC AND SAFE DEVELOPMENT OF LAND, AND PROVIDING FACILITIES TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE INCORPORATED AREA OF BRAINERD.

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SECTION 1  
TITLE AND APPLICATION

**500-1-1: Title.**

This Ordinance shall be known as the Brainerd Subdivision Ordinance, and will be referred to herein as this Ordinance.

**500-1-2: Purpose.**

The Council being aware of the responsibility which they have for the adoption of ordinances, rules and regulations designed for the protection of health, safety and general welfare of this community, deem it necessary to provide regulations for platting and subdividing of property within the City which will prevent, as far as possible:

- A. The uses of land which are not feasible.
- B. The location of streets where such location does not fit the overall pattern of the City.
- C. The general design of the proposed building lots in any platted area which might prevent compliance with the Building Code, Zoning Ordinance, or other regulations of the City in the future.
- D. To make all subdivisions of property conform as nearly as possible with a future overall plan.

Does hereby order that all subdivisions hereafter planned within the limits of the City shall, in all respects, fully comply with the regulations hereinafter set forth.

**500-1-3: Jurisdiction.**

The provisions of this Ordinance shall apply to all lands within the incorporated boundaries of Brainerd.

**500-1-4: Platting Authority.**

The Brainerd City Council shall serve as the platting authority of the incorporated areas of the City in accordance with Minnesota Statute Chapters 462.358, as may be amended. No plat or replat shall be filed or accepted for filing by the Office of the Crow Wing County Recorder unless adopted by the affirmative vote of the majority of the members of the City Council approving such plat or replat.

**500-1-5: Administration.**

This Ordinance shall be administered by the Zoning Administrator who is appointed by the City Council.

**500-1-6: Amendments.**

The provisions of this Ordinance shall be amended by the City following a legally advertised public hearing before the Planning Commission and in accordance with the law, including the rules and regulations of any applicable state or federal agency.

**500-1-7: Conditions for Recording.**

No plat or subdivision shall be entitled to record in the Crow Wing County Recorder's Office or have any validity until the plat thereof has been prepared, approved and acknowledged in the manner prescribed by this Ordinance.

**500-1-8: Building Permits.**

Except for model homes or other special circumstances approved by the City Council, no building permits shall be considered for issuance by the City for the construction of any building, structure or improvement to the land or to any lot in a subdivision as defined herein, until all requirements of this Ordinance have been fully complied with.

**500-1-9: Separability.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason found to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

**500-1-10: Policy.**

- A. It is hereby declared to be the policy of the City to consider the subdivision of land and the subsequent development of the plat as subject to the control of the City pursuant to the Brainerd Comprehensive Plan for the orderly, planned, efficient and economical development of the City.
- B. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health from fire, flood, or other menace. Land shall not be subdivided unless proper provisions have been made for drainage, stormwater management, wetland protection, potable water, domestic waste water, streets, and capital improvements such as parks, trails, sidewalks, recreation facilities, transportation facilities, stormwater improvements, and any other necessary improvements.

- C. The existing and proposed public improvements shall conform to and be properly related to the Comprehensive Plan, Comprehensive Sanitary Sewer Plan, Master Water Study, Storm Water Management Plan, Comprehensive Trail Plan, and the Capital Improvement Plan of the City.
- D. The provisions of this Chapter are in addition to and not in replacement of provisions of all Building Codes and the zoning regulations. Any provision of the Building Code and zoning regulations shall remain in full force and effect except as may be contradictory to the provisions hereof. Where any provision conflicts with other provision, the most restrictive provision shall be applied.

**500-1-11: Application of Rules.**

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

- A. The singular includes the plural and the plural the singular.
- B. The present includes the past and future tenses, and the future tense includes the present tense.
- C. The masculine gender includes the feminine and neuter genders.
- D. Whenever a word or term defined hereinafter appears in this Ordinance, its meaning shall be construed as set forth in such definition.
- E. In the event of conflicting provisions, the more restrictive shall apply.
- F. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirement for the promotion of health, safety, and welfare.

**500-1-12: Definitions.**

For the purpose of this Ordinance the following definitions have the meaning given them solely for the purposes of implementation of this Ordinance:

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

**Applicant.** The person(s) whose name(s) are on an application as owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this ordinance are being considered or reviewed.

**Attorney.** The City Attorney.

**Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

**Block.** That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

**Boulevard.** That portion of the street right-of-way between the curb line or edge of pavement and the property line.

**Boundary Lines.** Lines indicating the bounds or limits of any tract or parcel of land.

**Buffer Strip.** A linear strip of land along a lake, wetland, river, creek, or stormwater ponding area where vegetation is established and maintained as a means to slow the velocity of stormwater drainage and to filter sediment and pollutants from the stormwater.

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

**Build Out Plan (Ghost Plat).** A subdivision or resubdivision concept plan illustrating possible future lot layout, street networks, and utility systems for oversized lots, outlots, or undeveloped land within or adjoining a preliminary plat.

**Buildable Land.** Contiguous land area occurring within the property lines of a parcel of lot excluding drainageways, wetlands, water courses, park land, road rights-of-way, and slopes in excess of thirty (30) percent.

**Building.** Any structure having a roof which may provide shelter or enclosure of persons, animals, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

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

**Capital Improvement Plan.** An itemized program setting forth the schedule and details of specific contemplated public improvements by fiscal year, together with their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the government, and such other information on capital improvements as may be pertinent.

**Certificate of Survey.** A land survey prepared by a land surveyor registered in the State of Minnesota with a certification that the information on the land survey is accurate.

**Common Interest Community or CIC.** Contiguous or non-contiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for: 1) real estate taxes levied against; 2) insurance premiums payable with respect to; 3) maintenance of; or 4) construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate pursuant to Minnesota Statutes Section 515B.2-121 (f)(1), as amended from time to time.

**Common Open Space.** Any open space including private parks, nature areas, playgrounds, trails and recreational buildings and structures owned in common by a group of property owners.

**Comprehensive Plan.** A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the City of Brainerd and its environs. Said plan includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**Condominium.** A form of individual ownership within a multi-unit building with joint responsibility for maintenance and repairs. In a condominium, each unit is under separate ownership, along with an undivided share of common buildings and land.

**Conservation Development.** The development pattern and technique whereby lots are arranged in closely related groups to preserve the natural amenities of the land through the creation of common open space.

**Contour Map.** A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

**Critical Root Zone (CRZ).** An imaginary circle surrounding the tree trunk with a radius distance of one (1) foot per one (1) inch of tree diameter, e.g., a twenty (20) inch diameter tree has a CRZ with a radius of twenty (20) feet.

**Cul-de-sac.** (See Street)

**Design Standards.** The specifications for the preparation of sketch plans, preliminary plats and final plats indicating, among other things, the optimum minimum or maximum dimensions of such features as rights-of-way and blocks, as set forth in this Chapter.

**Developer.** Any person or entity other than a builder, as defined herein, who undertakes to improve a parcel of land, by platting, grading, installing, utilities or construction or improving any building thereon.

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

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

**Drip Line.** The farthest distance away from the trunk that rain or dew will fall directly to the ground from the leaves or branches of the tree.

**Easement.** A grant by an owner of land for specific use by a person or persons other than the owner. An easement may be granted for the purposes of constructing and maintaining walkways, roadways, utilities, and other uses.

**Engineer.** An engineer employed by the City.

**Escrow.** The deposition of funds in an account maintained by the governmental unit specifically for the purpose of ensuring fulfillment of certain obligations pursuant to this Ordinance.

**Financial Guarantee.** A financial security consistent with Section 10 of this Ordinance, posted with the City with the approval of a final plat, guaranteeing compliance with the approved final plat, construction plans, and conditions of approval set forth by the City.

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

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

**Grade, Percentage of.** The rise or fall of a street in feet and tenths of a foot for each one hundred (100) feet of horizontal distance measured at the center line of the street.

**High Water Level.** The water level in a watercourse which could be predicted to occur as a result of the critical 100-year runoff event using U.S. Department of Agriculture Soil Conservation Service methodology, as approved by the City.

**Improvement, Public.** Any drainage facility, street, parkway, park, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established.

**Land Disturbance.** Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction or any other construction activity.

**Lot.** A parcel of land designated by metes and bounds, auditors plat, subdivision plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof.

**Lot, Base.** Lots meeting all the specifications in the zoning district prior to being subdivided into a two family dwelling, quadraminium, or townhome subdivision.

**Lot, Corner.** A lot situated at the junction of, and abutting on two (2) of a continuous street, the interior angle or lot which does not exceed one hundred thirty-five (135) degrees.

**Lot, Double Frontage.** A lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot.

**Lot, Flag.** A lot whose public rights-of-way does not meet the minimum required width. Access is provided by a narrow strip of land or private right-of-way.

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

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

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

**Lot Line Rear.** That boundary of a lot which is opposite the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

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

**Metes and Bounds.** A method of property description by means of their direction and distance from an identifiable point of beginning.

**Outlot.** A parcel of land shown on a subdivision plat as an outlot, and designated alphanumerically, (for example - Outlot A.) Outlots are used to designate one of the

following: land that is part of the subdivision but is to be subdivided into lots and blocks at a later date; land that is to be used for a specific purpose as designated in a developer's agreement or other agreement between the City and the developer.

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

**Pedestrian and/or Bicycle Trail.** An easement or land dedication given to the City for the purpose of providing public walking and/or bicycling trails to City residents. The trails shall provide recreational opportunity and also access to parks, natural areas, and public land in accordance with the City's adopted trail plan.

**Plat.** The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statute 505, as may be amended.

**Plat, Final.** The final map or drawing, consistent with the standards of Section 5 this Ordinance, on which the developer's plan or subdivision is presented to the City Council for approval and which, if approved, will be submitted to the Office of the County Recorder or Registrar of Titles.

**Plat, Preliminary.** The preliminary map or drawing, consistent with the standards of Section 4 of this Ordinance, indicating the proposed layout of the subdivision to be submitted to the City for their consideration for compliance with the Comprehensive Plan, the Zoning Ordinance, and these regulations along with required supporting data.

**Protective Covenant.** A restriction of the use placed upon the property by a present or former owner and recorded in the Office of the County Recorder or the Registrar of Titles. The City will not be responsible to enforce private protective covenants.

**Registered Land Survey.** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number.

**Registered Land Surveyor.** A land surveyor licensed and registered in the State of Minnesota.

**Resubdivision.** A change in an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved for public use, or any lot line or if it affects any map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**Right-of-Way.** A strip of land occupied or intended to be occupied by a street, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be

separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-Way intended for streets, sidewalks, trails, water main, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the recording of the plat on which such right-of-way is established.

**Road Right-of-Way Width.** The horizontal distance between the outside edges of a road right-of-way.

**Setback.** The minimum horizontal distance between a structure, individual sewage treatment system, or other facility, and an ordinary high water level, sewage treatment system, top of bluff, road, highway, property line, or other facility.

**Shoreland.** Land located within the following distances from public waters: one thousand (1,000) feet from the ordinary high water level of a lake, pond or flowage and three hundred (300) feet from a river or stream or the landward extent of a floodplain designated in Section 530.07 Shoreland and Classifications and Land of the City Code on a river or stream, whichever is greater. The limits of shoreland may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

**Steep Slope.** Lands having average slopes of thirty (30) percent or more measured over horizontal distances of fifty (50) feet or more.

**Street.** A right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, court, way, trail or however otherwise designated. Private, ingress and egress easements shall not be considered streets. City streets shall be categorized by functional classification, as defined by the Brainerd Comprehensive Plan.

**Street, Cul-de-sac.** A local street with only one outlot and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**Street, Private.** A private street is one which is not maintained by the City and for which the City is not under obligation to carry our repairs, even though it may be a named street and serve a number of properties.

**Street Width.** The width of the improved surface of the street as measured at right angles or radially to the centerline of the street from curb face to curb face, or on a street without curbs from the outside edge of the improved shoulder to outside edge of improved shoulder.

**Subdivision.** The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots, or long term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys for residential, commercial, industrial or other use or any combination thereof, except those separations:

1. Where all the resulting parcels, tracts, lots or interests will be twenty (20) acres or larger in size and five hundred (500) feet in width for residential uses and five (5) acres or larger in size for commercial and industrial uses;
2. Creating cemetery lots;
3. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

**Subdivision, Administrative.** A subdivision which results in two (2) or fewer parcels, tracts, or lots from one (1) or two (2) existing parcels, tracts, or lots.

**Vegetation, Native.** The pre-settlement group of plant species native to the local region that were not introduced as a result of settlement or subsequent human activity.

**Watercourses.** Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.

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

**Wetland Alteration.** Human-induced actions that adversely impact the existing condition of a wetland or wetland buffer area, including grading, filling, dredging, dumping, cutting, pruning, topping, clearing native vegetation, and discharging pollutants (except stormwater). Alteration does not include walking, passive recreation, fishing, farming, planting that enhances native vegetation, or other similar activities allowed under the Minnesota Wetland Conservation Act.

**Wetland Buffer Strip.** An unknown, undisturbed, or re-established vegetated area in the upland area around the perimeter of a wetland. It is an integral part of protecting the wetland ecosystem through filtering pollutants and providing adjacent habitat.

**Wetland Buffer Strip Width Average.** The average width of a buffer strip around an individual wetland.

**Wetland Community.** In reference to plants, an interacting assemblage of plant populations sharing a given habitat.

**Wetland Edge.** The line delineating the outer edge of a wetland. This line shall be established by using the 1987 Corps of Engineers (COE) Wetland Delineation Manual (Environmental Laboratory, 1987).

**Wetland Enhance .** To improve the value of wetlands or wetland buffers with respect to the purposes of this Ordinance.

**Wetland Functions.** The natural processes performed by wetlands, including functions that are important in providing wildlife and fisheries habitat, facilitating food chain production, providing habitat for nesting, rearing, and resting for aquatic, terrestrial or avian species, maintaining the availability and quality of water, such as purifying water, acting as a recharge and discharge area for ground water aquifers and moderating surface water and storm water flows, improving stormwater quality, providing aesthetic benefits, as well as performing other functions, including but not limited to those set out in U.S. Army Corps of Engineers regulations at 33 C.F.R. Section 320.4(b)(2)(1988).

**Wetland Manage.** To control the use of wetland resources consistent with the purposes of this section. Management of wetlands includes conservation, maintenance, and enhancement.

**Wetlands, Manage 1.** These wetlands exist in a largely unaltered state and have special and unusual qualities that call for a high level of protection. These wetlands may provide habitat or rare, threatened and/or endangered plant and animal species present; and/or have moderate to exceptional floral diversity/integrity.

**Wetlands, Manage 2.** These wetlands have plant communities that are in a largely unaltered state. The vegetative communities of these wetlands are characterized by moderate floral diversity.

**Wetlands, Manage 3.** These wetlands have usually been altered by human activities. These wetlands have low to medium floral diversity and wildlife habitat components.

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

**Zoning Ordinance.** The Brainerd Zoning Ordinance, Chapter 515 of the City Code, as may be amended, regulating the use of land within the incorporated boundaries of Brainerd.

## SECTION 2 GENERAL PROVISIONS

### **500-2-1: Compliance with Comprehensive Plan, Zoning Ordinance and Official Map.**

No subdivision of land shall conflict with the provisions of the Comprehensive Plan, Zoning Ordinance, or Official Maps.

### **500-2-2: Fees.**

A subdivision application shall be accompanied by a fee established by City ordinance to pay for costs associated with the application processing and review. Said fee ordinance will be annually reviewed and updated.

The acceptance of all applications, issuance of permits, or recording of any plat shall not occur until a complete application has been filed and the appropriate fees have been paid.

### **500-2-3: Building Permits.**

Except for model homes or other special circumstances approved by the City Council, no building permit shall be issued by the City with respect to any land, parcel or lot until the provisions of this Ordinance in regard to the subdividing of property have been met. No building permit shall be issued for a platted outlot.

### **500-2-4: Variances.**

The City may grant a variance from the minimum standards of this Ordinance (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the City shall prescribe any conditions that it deems necessary to or desirable for the public interest. In granting a variance, the City shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be granted when the City finds that there are special circumstances or conditions affecting the property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land. Also, that the granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which property is situated. Also, that the variance is to correct inequities resulting from an extreme physical hardship such as topography, etc.

## **500-2-5: Preliminary Plat Approval**

Preliminary plat approval shall be based on the following criteria:

- A. That the proposed subdivision is consistent with adopted applicable general and specific comprehensive plans of the City.
- B. That the physical characteristics of this site, including but not limited to topography, percolation rate, soil conditions, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site are suitable for the type of development, design, or use contemplated.
- C. That the site is physically suitable for the proposed density of development.
- D. That the design of the subdivision or the proposed improvements are not likely to cause environmental damage.
- E. That the design of the subdivision or the type of improvements, are not likely to cause public health problems.
- F. That the design of the subdivision or the type of improvements will not conflict with easements of record or with easements established by judgment of a court.
- G. That the proposed subdivision, its site, or its design does not adversely affects the flood-carrying capacity of the floodway increases flood stages and velocities, or increases flood hazards within the floodway fringe or within other areas of the City.
- H. The proposed subdivision is consistent with the policies and standards of the State defined shoreland, floodplain, and wetland regulations.
- I. The City Council deems the subdivision is not premature.
- J. The design of the subdivision does not conform to minimum City development standards.
- K. A subdivision shall be consistent with the following plans:
  - a. Brainerd Comprehensive Plan.
  - b. Brainerd Sanitary Sewer Plan/Engineering Specifications.
  - c. Brainerd Water Plan/Engineering Specifications.
  - d. Stormwater Management Plan.
  - e. Comprehensive Trail Plan.

- f. Capital Improvement Plan.
2. Consistent with Growth Policies. A proposed urban subdivision shall meet the City's growth policies:
    - a. The cost of utilities and street extensions must be covered by one or more of the following and approved by the City Council:
      - (1) An immediate assessment to the proposed subdivision.
      - (2) One hundred (100) percent of the street and utility costs are privately financed by the developer.
      - (3) The cost of regional and/or oversized trunk utility lines can be financed with available City trunk funds.
      - (4) The cost and timing of the expenditure of City funds are consistent with the City's capital improvement plan.
    - b. The cost, operation and maintenance of the utility system are consistent with the normal costs as projected within the City's water, sewer, and stormwater utility rates.
    - c. The developer payments will offset additional costs of utility installation or future operation and maintenance.
  3. Roads or Highways to Serve the Subdivision. A proposed subdivision shall have adequate roads or highways when:
    - a. Roads or highways providing access to a subdivision are functioning at a level of service (LOS) D or better, as defined by the 2000 Highway Capacity Manual, as amended from time to time.
    - b. Traffic generated by a proposed subdivision will maintain the levels of service (LOS) of any street providing access to the subdivision to a LOS D or better, as defined by the 2000 Highway Capacity Manual, as amended from time to time.
    - c. Existing roads providing access to the subdivision have the structural capacity to accommodate projected traffic from the proposed subdivision or the developer will pay to correct any structural deficiencies.
    - d. The traffic generated from a proposed subdivision shall not require City street improvements that are inconsistent with the Brainerd

Capital Improvement Plan or the developer shall pay to correct any street deficiencies.

- e. The developer will finance any street improvements or upgrades required by the City's Comprehensive Plan or County Highway Department to insure proper traffic flow and traffic safety.
4. Water Supply. A proposed subdivision shall be deemed to have an adequate water supply when:
- a. The City water system has adequate wells, storage, or pipe capacity to serve the subdivision.
  - b. The water utility extension is consistent with the Brainerd Water Plan and offers the opportunity for water main looping to serve the urban subdivision.
  - c. The extension of water mains will provide adequate water pressure for personal use and fire protection.
  - d. Private abandoned wells within the land to be subdivided shall be identified and inspected.
5. Waste Disposal Systems. A proposed subdivision shall be served with adequate waste disposal systems when:
- a. The City has sufficient waste treatment plant and pipe capacity to serve the subdivision if developed to its maximum density.
  - b. The subdivision will result in a sewer extension consistent with the Brainerd Sanitary Sewer Plan, as applicable and Capital Improvement Plan.
6. Lack of Adequate Drainage. A condition of inadequate drainage shall be deemed to exist if:
- a. Surface or subsurface water retention and runoff are such that it constitutes a danger to the structural security of existing or proposed structures.
  - b. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
  - c. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.

- d. Factors to be considered in making these determinations may include: average rainfall for the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

## SECTION 3 SKETCH PLAN

A sketch plan shall be prepared depicting the subdivision proposal for informal review prior to filing a formal application. A sketch plan may be required with all annexation petitions. On the basis of the sketch plan, the City shall informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision generally conforms to the design standards of this section and to other sections of this Ordinance. Sketch plan review does not convey any legal development rights to the applicants.

### **500-3-1: Information Required for Sketch Plan.**

The sketch plan shall include seven (7) large scale copies and one (1) reduced scale (11" by 17") copy of detailed written materials, plans and specifications to include the following information:

*NOTE:* One/two additional large scale copies shall be provided for each of the following, if applicable:

1. Project is adjacent to a county road or county state aid highway (1).
2. Project is adjacent to a state highway (1).
3. Project lies within a Shoreland or Flood Plain Overlay Districts (1).

#### A. General Location and Site Description.

1. Name and address of developer/owner.
2. Date of plan preparation and dates of revision.
3. Scale of plan (engineering scale only - one (1) inch equals one hundred (100) feet).
4. North arrow indication.
5. Legal description.
6. Property location map illustrating the site location relative to adjoining properties and streets.
7. Scaled drawing (engineering scale only) illustrating property boundaries.
8. Proof that the person is a qualified applicant pursuant to Section 500-1-12.

9. Current and proposed land use and zoning.
10. Evaluation by the applicant that the subdivision would not be determined to be premature pursuant to the criteria outlined by the Comprehensive Plan and Subdivision Ordinance.
11. Additional information as required by the Zoning Administrator.

B. Resource Inventory

A resource inventory, mapped at a scale of one (1) inch to one hundred (100) feet or less shall include:

1. Topographic contours at two (2) foot intervals showing slopes of more than fifteen (15) percent.
2. Soil type locations and identification of soil type characteristics such as hydric soils, depth to water table and suitability for wastewater disposal systems, if applicable (Crow Wing County Soil Survey information).
3. Hydrologic characteristics including surface water courses, floodplains, delineated wetlands, natural swales, and drainageways.
4. Site vegetation including:
  - a. Cover type (pasture, woodland, etc.).
  - b. Woodland area boundaries.
  - c. Individual trees having a diameter at breast height of eighteen (18) or more inches.
  - d. Vegetative type descriptions (deciduous, coniferous or mixed) by plant community, relative age, and condition.
5. Current land use and land cover (cultivated areas, paved areas, etc.), all buildings and structures on the land, and all encumbrances, such as easements or covenants.
6. Transportation systems including:
  - a. Adjoining streets.
  - b. Functional classifications.
  - c. Current and projected traffic volumes.

- d. General conditions.
  - 7. Neighborhood context. General outlines of existing neighborhoods, land uses, buildings, streets, and natural features such as water bodies or wooded areas, roads, driveways and property boundaries within three hundred (300) feet of the tract. This information shall be presented on an aerial photograph at a scale of no less than one (1) inch to two hundred (200) feet.
- C. Sketch Subdivision Plan. One (1) or more of the subdivision sketch plans meeting the intent of this Ordinance and including at least the following information:
- 1. Open space areas indicating which areas are to be protected and defined by the purpose of the open space.
  - 2. Boundaries of areas to be developed and proposed general streets and lot layout.
  - 3. Number and type of housing units and/or approximate size and location of commercial and industrial buildings as may be applicable.
  - 4. Areas proposed for stormwater management.
  - 5. Street system that interconnects neighborhoods that is consistent with the Brainerd Comprehensive Plan.
  - 6. Location of utility trunks intended to serve the site.
  - 7. Said plans shall be drawn at a scale of one (1) inch to one hundred (100) feet or less.
  - 8. Total area of wetlands and uplands on site.
- D. Application fee and deposit or escrow security to pay for review costs of the City staff and consultants.

**500-3-2: Filing and Review of Application.**

- A. Procedure
- 1. Pre-Application Meeting. An applicant shall meet with City staff to discuss a proposed development and investigate the City requirements for pursuing a development application.

2. Neighborhood Meeting. The property owner/applicant shall hold a neighborhood meeting for informal comment and feedback prior to submitting a formal sketch application.
3. An application for sketch plan along with the associated information and fee established by the City Council shall be submitted to the Zoning Administrator.
4. The Zoning Administrator shall submit copies of the sketch plan and associated information to other staff, committees, consultants, or agencies as appropriate.
5. The Zoning Administrator shall forward the sketch plan submission to the City's advisory boards and City Council for their consideration at regularly scheduled meetings to solicit informal review and comment on the project's acceptability in relation to the City's Comprehensive Plan and development regulations. Such meetings should be attended by the applicant.
6. Sketch plan review does not convey any legal development rights to the applicants.

**500-3-3: Determination of Requirement for Environmental Review Documents.**

The Zoning Administrator may review the sketch plan and may determine if an Environmental Assessment Worksheet (EAW), Environmental Impact Statement (EIS), or Alternative Urban Area-Wide Review (AUAR) is required pursuant to Minnesota Rules. If such documents are required, the Zoning Administrator may notify the developer of the requirement.

An escrow deposit in addition to the standard requirements shall be submitted by the applicant to cover City costs reviewing and administering an EAW.

## SECTION 4 PRELIMINARY PLAT

After the completion of the sketch plan process, if submitted, the owner or developer shall file with the City an application for preliminary plat. The preliminary plat stage is the point in the process that all information pertinent to the proposed development is furnished by the developer for review by the City staff and consultants, City advisory committees, the City Council, any other applicable agencies, and the public. The information provides a basis for approval or denial of the application. The information submitted in the application shall address both existing conditions and changes that will occur during and after development. The preliminary plat is a plan of how property will be subdivided and developed.

Additional information or modifications may be required by the Zoning Administrator, City staff and consultants, City advisory committees, or City Council and additional information may be requested during the review process. In certain cases, some information required by these standards may not be appropriate or may need to be modified in order to provide an adequate basis for making a decision.

### **500-4-1: Information Required for Preliminary Plat.**

Preliminary plat information is typically furnished on plan sheets. However, some information is more appropriately submitted in other forms. The plat, and associated information, shall be submitted in a form that is legible, organized and understandable. The preliminary plat application shall consist of maps and accompanying documents. An owner or applicant shall submit twelve (12) large scale copies (one (1) inch equals one hundred (100) feet or less) and one (1) reduced scale copy (11" x 17") and one (1) digital electronic copy in a format compatible with the City's computer system of detailed graphic materials, plans and specifications along with any written materials, including the following information:

Plans:

1. Certificate of survey.
2. Resource inventory.
3. Preliminary plat.
4. Plans showing street alignment, street grades and a typical street section.
5. Preliminary grading, drainage and erosion control plan.
6. Preliminary utility plan.

7. Wetland mitigation plan (if determined necessary).
8. Environmental evaluations (if determined necessary).

*NOTE:* One (1) or two (2) additional large scale copies shall be provided for each of the following, if applicable:

1. Project is adjacent to a county road or county state aid highway (1).
2. Project is adjacent to a state highway (2).
3. Project lies within a Shoreland or Floodplain Overlay District (1).

A. Certificate of Survey

Prepared by a licensed land surveyor identifying the following:

1. Scale (engineering only) at one (1) inch equals one hundred (100) feet or less.
2. North arrow indication.
3. Existing parcel boundaries to be platted with dimensions and area.
4. Existing legal description.
5. Easements of record.
6. Delineated wetland boundary, to include the ordinary high water level (OHWL) of any lakes or Department of Natural Resources (DNR) waters. Floodplain as shown on Federal Emergency Management Agency (FEMA) FIRM map.
7. All encroachments.
8. Existing buildings structures and improvements within the parcel to be platted and those three hundred fifty (350) feet outside the boundaries of the subject parcel.
9. Location, widths and names of all public streets, rights-of-way or railroad rights-of-way showing type, width and condition of the improvements, if any, which pass through and/or are within three hundred fifty (350) feet.
10. The outside boundary of the subject property is to be clearly marked with survey monuments.

B. Resource Inventory

1. Topographic contours at two (2) foot intervals showing slopes of more than thirty (30) percent.
2. Soil type locations and identification of soil type characteristics such as hydric soils, agricultural capability, depth to bedrock, depth of water table and suitability for wastewater disposal systems, if applicable (Crow Wing County Soil Survey information).
3. Hydrologic characteristics, including surface water courses, floodplains, delineated wetlands, natural swales, and drainageways. Ordinary high water level and 100 year storm elevations of adjoining water courses, lakes, wetlands, streams, etc. at the date of the survey and approximate high and low water elevations. An applicant that is proposing any new development will be required to submit a Minnesota Routine Assessment Method for Evaluating Wetland Functions (MNRAM) form filled out for each wetland if located on the subject property. This MNRAM form will need to be filled out by a consultant trained in wetland science.
4. Neighborhood Context. General outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads, driveways, and property boundaries within three hundred fifty (350) feet of the tract. This information may be presented on an aerial photograph at a scale of no less than one (1) inch to two hundred (200) feet.

C. Preliminary Plat

1. The proposed name of the plat which name shall not duplicate the name of any plat theretofore recorded in the County.
2. Date of application, name, address, phone number and applicable license or registration number of the owner, developer, agent, applicant, engineer, surveyor, planner, attorney or other principle involved in the development of the plat.
3. Proof that the person is a qualified applicant pursuant to Section 500-1-12.
4. Existing Comprehensive Plan guiding and zoning designation within or abutting the proposed plat. Any zoning changes needed or reference to any zoning or similar land use actions that are pertinent to the proposed development.
5. Total acreage of the land to be subdivided and total upland area.
6. Boundary line survey and legal description.

7. North arrow and graphic engineering scale of one (1) inch equals one hundred (100) feet.
8. Existing covenants, liens, or encumbrances.
9. Proposed lot lines, dimensions, gross and buildable acreage of all lots. When lots are located on a curve in a road or cul-de-sac, the lot width at the building setback line shall be shown. Proposed lot and block numbers.
10. Building pad, minimum building setbacks shown on each lot indicating dimensions of the setbacks. Location and width of buffer yards where the subdivision adjoins a collector or arterial street.
11. Layout of streets, showing right-of-way widths, typical street sections, centerline street grades and approximate radii of all curbs, proposed contours within the entire plat, and names of streets. The name of any street heretofore used in the City or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the name shall be used. Street names shall follow City policy and be approved by the Crow Wing County Surveyor and the Brainerd City Council.
12. Access, right-of-way widths, driveways, and street classifications shall be consistent with the Brainerd Comprehensive Plan.
13. Parks, trails, or other areas intended for public use or common ownership.
14. Any additional information as requested by the Zoning Administrator.
15. Dates of plan preparation and revision dates.

D. Preliminary Grading, Drainage and Erosion Control Plan

The developer shall submit a preliminary grading, drainage and erosion control plan utilizing a copy of the current certificate of survey as a base for the site in question, prepared by a licensed engineer, depicting the following information:

1. Scale (engineering only) one (1) inch equals one hundred (100) feet or less.
2. North point indication.
3. Location of natural features including, but not limited to, tree lines, delineated wetlands, water courses, ponds, lakes, streams, drainage channels, ordinary high water level (OHWL) and one hundred (100) year storm elevations, bluffs, slopes in excess of thirty (30) percent, etc.

4. The delineation of all wetlands in accordance with criteria established by the Wetlands Conservation Act 1991, as may be amended, the Army Corps of Engineers, and/or Minnesota Department of Natural Resources.
5. Wetland mitigation plan consistent with the criteria established by the Wetland Conservation Act 1991, as may be amended.
6. Existing contours at two (2) foot intervals shown as dashed lines for the subject property and extending one hundred (100) feet beyond the outside boundary of the proposed plat.
7. Proposed grade elevations at two (2) foot intervals shown as solid lines.
8. Proposed plan for surface water management, ponding, drainage and flood control consistent with the recommendations and standards of the Brainerd Storm Water Management Plan.
9. Provision for groundwater management including sub-surface drains, disposals, ponding, and flood controls.
10. Location of all existing storm sewer facilities including pipes, manholes, catch basins, ponds, swales and drainage channels within one hundred (100) feet of the subject property. Existing pipe grades, rim and invert elevations and normal and high water elevations must be included.
11. If the subject property is within or adjacent to a one hundred (100)-year floodplain, flood elevation and locations must be shown. Proposed fill, levees, channel modifications, and other methods to overcome flood or erosion hazard areas in accordance with the Brainerd Floodplain Ordinance and by use of the one hundred (100)-year flood profile and other supporting technical data in the Flood Insurance Study.
12. Spot elevations at drainage break points and directional arrows indicating site, swale and lot drainage.
13. Lot and block numbers, building style, building pad location and elevations at the lowest floor and garage slab for each lot.
14. Locations, grades, rim and invert elevations of all proposed storm water facilities, including ponds, proposed to serve the subject property.
15. Phasing of grading.
16. The location and purpose of all oversize, non-typical easements.

17. All soil erosion and sediment control measures to be incorporated during and after construction must be shown. Locations and standard detail plates for each measure shall be in accordance with City standards and included on the plan.
18. All re-vegetation measures proposed for the subject property must be included on the plan, including seed and mulch types and application rates.
19. Drainage plan, including the configuration of drainage areas and calculations for two (2) year, ten (10) year, and one hundred (100)-year storm events.
20. Layout of proposed streets showing centerline gradients, section widths, and typical cross sections.
21. Date of plan preparation and dates of all revisions.
22. For subdivisions which shall disturb one (1) or more acres of land, the subdivider shall submit a NPDES permit application and Storm Water Pollution Prevention Plan (SWPPP) to the Minnesota Pollution Control Agency (MPCA) for a storm water program permit.

E. Preliminary Utility Plan

The developer shall submit a preliminary utility plan utilizing a copy of the current certificate of survey as a base for the site in question, prepared by a licensed engineer, depicting the following information:

1. Scale (engineering only) one (1) inch equals one hundred (100) feet or less.
2. The location, dimensions, and purpose of all easements of record.
3. Location and size of existing sanitary sewers, storm sewers, water mains, culverts, or other underground facilities within the subject property and to a distance of one hundred (100) feet beyond the outside boundary of the proposed plat. Data such as grades, invert elevations, and location of catch basins, manholes and hydrants shall also be shown.
4. Locations and routing of proposed sanitary sewer lines, stormwater lines, and water mains. Identification of gravity, force main, and alternative service lines.
5. Water mains shall be provided to serve the subdivision by extension of an existing community system. Service connections shall be stubbed ten (10) feet into each lot and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the City.

6. Sanitary sewer trunk, laterals, and service connections shall be illustrated in accordance with the standards of the City with regard to location, size, and service type, subject to final review and approval of the City Council.
7. The location of hydrants and valves for all proposed water mains.
8. All other utilities shall be located and designed in accordance with the requirements of the City Engineer.
9. Submit storm sewer design flow calculations with the utility plans.
10. Date of plan preparation and dates of all revisions.

F. Determination of Requirement for Environmental Review Documents

The Zoning Administrator may review the preliminary plat and may determine if an Environmental Assessment Workshop (EAW), Environmental Impact Statement (EIS), or Alternative Urban Area-Wide Review (AUAR) is required pursuant to Minnesota Rules. If such documents are required, the Zoning Administrator may notify the developer of the requirement.

An escrow deposit in addition to the standard requirements shall be submitted by the applicant to cover City costs reviewing and administering an EAW.

G. Additional Information Required

1. Evaluation by the applicant that the subdivision would not be determined to be premature pursuant to the criteria outlined by the Comprehensive Plan and Subdivision Ordinance.
2. Phasing Plan. All preliminary plats shall include a phasing plan that includes:
  - a. A phasing plan identifying the sequence of development and approximate areas, number of lots in each phase, total area and buildable area per phase, serially numbered with a description of each phase. Information shall be provided regarding the number of dwelling units, proposed improvements, and common facilities for each. Each phase of a preliminary plat shall be consistent with growth management criteria of the City.
  - b. Any trail/sidewalks within the approved phase of the preliminary plat shall be constructed along with streets and utilities and shall be clearly marked on a site map which shall be an attachment to all sales agreements for individual lots.
  - c. Site grading shall be coordinated with the phasing plan to avoid premature disruption of land or long term storage of excess materials.

- d. Each phase of developer improvements as specified in the final plat and development agreement shall be completed prior to initiating any subsequent phase. Developer improvements shall be limited to those specifically illustrated and/or enumerated in the final plat and development agreement.
3. Documents outlining the content of proposed conservation easements, restrictive covenants, deed restrictions, and establishment of homeowners associations for review. Where the plat is intended to include common open spaces, these documents shall address ownership and long term maintenance of these open spaces areas.
4. Information or easements showing how public and/or private utilities, drainage, and roads can be extended to serve adjacent property.
5. Landscape and screening plans showing landscape plantings for street boulevards, subdivision entrances, and buffer yards, and specifying plant locations, varieties, sizes, ownership, maintenance responsibilities, and monument signs.
6. Traffic study for the subdivision including pre and post development information regarding traffic generation, traffic distribution, capacity of existing streets, and level of service (LOS) on existing streets.
7. Examples of Housing Product. Illustration of building footprint, floor plans, and building elevations proposed within the subdivision.
8. Other information deemed necessary for a complete application.

**500-4-2: Filing and Review of Application.**

**A. Procedure**

1. **Pre-Application Meeting.** The property owner/ applicant shall meet with the Zoning Administrator/City staff to discuss the preliminary plat application. Through this meeting, the Zoning Administrator/City staff may summarize the City's review comments and offer suggestions pertaining to additional information or design changes that may assist in expediting the preliminary plat review.
2. **Neighborhood Meeting.** The City strongly recommends the property owner/applicant hold a neighborhood meeting for informal comment and feedback prior to preliminary plat application.
3. The person applying for preliminary plat approval shall submit to the Zoning Administrator a complete application and all other information required according to the deadline and meeting schedule established by the City. The application shall address the informational requirements of Section 500-4-1 of this Ordinance and issues identified through the sketch plan review procedure.

4. A complete Preliminary Plat Application shall include:
  - a. A graphic and written description of the information requirements outlined in Section 500-4-1 of this Ordinance.
  - b. Applications shall be accompanied by a fee and processing escrow established by the City Council.
5. The Zoning Administrator shall refer copies of the preliminary plat to other staff, committees, consultants, or agencies as appropriate.
6. Upon receipt of a complete application, the Zoning Administrator shall have a report prepared and refer the application to the Planning Commission, and City Council.
7. The Planning Commission shall hold a public hearing on the proposed preliminary plat. Notice of the public hearing shall be published in the official newspaper designated by the City Council at least ten (10) days prior to the hearing. Written notification of the hearing shall be mailed at least ten (10) days prior to the hearing to all owners of land within three hundred fifty (350) feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance, provided a bona fide attempt has been made to comply with the notice requirements of this Ordinance.
8. The Planning Commission shall take public testimony at their public hearing and evaluate the requested preliminary plat against the premature subdivision criteria of Section 500-2-5 of this Ordinance, the performance standards of this Ordinance, the performance standards of the Brainerd Zoning Ordinance, and other City requirements. The Planning Commission shall make findings and offer a recommendation for either preliminary plat approval or denial. The Planning Commission may offer a recommendation of approval with conditions necessary to satisfy City regulations.
9. The Zoning Administrator shall prepare a staff report of the findings and recommendations of the Planning Commission. The findings may include specific conditions of approval or findings related to denial of the plat.
10. The City Council shall take action on the application within one hundred twenty (120) days following delivery of an application completed in accordance with the regulations of this Ordinance, unless an extension is agreed to by the applicant. If the City Council approves the preliminary plat, it may impose conditions it considers necessary to protect the public health, safety and welfare. If the City Council denies the preliminary plat, it must state in writing the reasons for the denial at the time it denies the request.

11. The City Council shall take action on the application which shall include findings of fact, and shall be entered in the proceedings of the City Council and transmitted to the applicant in writing. The lack of a majority Council vote to affirmatively approve a preliminary plat shall be a denial of the requested application.
12. If the preliminary plat is approved by the City Council, the subdivider shall submit a complete application for final plat in accordance with the approved phasing plan but no later than one (1) year, after said approval or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing by the applicant and approved by the City Council.

## SECTION 5 FINAL PLAT

### **500-5-1: Information Required for Final Plat.**

Approval of a preliminary plat by the City Council is an acceptance of the general layout, as submitted, and indicates that the developer may proceed toward final plat approval in accordance with the City Council approval of the preliminary plat, including conditions and the City growth management standards.

A complete application for final plat shall be submitted no later than one (1) year after the date of approval of the preliminary plat, or a time as provided in the developer's agreement. Otherwise, the preliminary plat approval shall be considered void, unless an extension is requested in writing, and for good cause, is granted by the City Council. Approved preliminary plats that include a development phasing plan may be exempt from the one (1) year expiration if future development phases are platted as outlots.

The final plat application shall have incorporated all the conditions of City Council approval of the preliminary plat. In all other respects, the final plat shall substantially conform to the preliminary plat. It may constitute only that portion of the approved preliminary plat which the developer proposes to record and develop at that time, provided that such portion conforms with all the requirements of this Ordinance.

Approval of the engineering specifications required by this Ordinance pertaining to water supply, drainage, domestic waste water, potable water, street lighting, gas and electric service, grading, roadway standards, widths, and surfacing of streets, shall be completed by the Zoning Administrator and appropriate development contracts prepared prior to approval of the final plat by the City Council.

#### **A. Revised Preliminary Plat.**

1. The City may require seven (7) large scale copies twenty-two by thirty-four inch (22" x 34"), one (1) reproducible reduction eleven by seventeen inch (11" x 17"), and one (1) digital electronic copy in a format compatible with the City's computer system of the preliminary plat and of supporting documents illustrating all changes and conditions that were required as part of preliminary plat approval. This revised preliminary plat will provide the historical record of the subdivision approval by which subsequent final plats shall be considered.

#### **B. Title Restrictions.**

The City may require one (1) copy of any title declaration, conservation easements, deed restriction, restrictive covenant, or homeowner's association documents.

C. Final Plat General Information.

Twelve (12) large scale twenty-two by thirty-four inch (22" x 34") copies and one digital electronic copy in a format compatible with the City's computer system of the final plat and supporting documents, plus any additional copies deemed necessary by the Zoning Administrator plus one (1) reproducible copy reduced to eleven by seventeen inch (11" x 17").

1. Name of the subdivision.
2. Location by section, township, range, county, and state as well as descriptive boundaries of the subdivision based upon an accurate traverse, giving angular and linear dimensions.
3. Scale (engineering only) one (1) inch equals one hundred (100) feet or less.
4. North point indication.
5. The location of monuments shall be shown and described. Pipe or steel rod shall be at the corners of each lot and at each intersection of street centerlines.
6. Location and accurate dimensions of all lots, outlots, streets, and other features. Lots and blocks shall be numbered.
7. A listing of the total area of each lot measured in gross square feet per lot and total area of the plat.
8. The exact location, widths and names of all proposed streets to be dedicated.
9. The location and width of all easements to be dedicated.
10. Accurate outlines and legal description of land to be dedicated as parks, trails, ponds, or other public use shall be illustrated on the final plat and dedicated with the final plat.
11. Name and address of the registered surveyor of the plat with certification by in the form required by Minnesota Statutes 505.03, as may be amended.
12. Statement dedicating all easements as follows: easements for installation and maintenance of trails, utilities and drainage facilities are reserved over, under, and along the areas designated as drainage and utility easements.
13. Statement dedicating all streets or other public rights-of-way as follows: streets and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

14. Final grading, utility and street construction plans shall be prepared and submitted along with estimated construction costs in accordance with City standards.

D. Development Contracts.

1. The developer shall meet with the City staff to finalize the terms of the development contract.
2. Upon finalization of the development contract, the City Administrator or designee shall have the final copy of the contract signed by all appropriate parties.
3. Financial guarantees shall be posted with the City as outlined in the development contract.
4. Final grading and utility plans shall be approved by the City Engineer and made a part of the development contract. Grading is not allowed until the final plat and development agreement are approved and the development agreement is signed and a financial security is in place with the City.
5. When the City Council has agreed to install improvements in a development, the developer shall furnish the City a financial statement satisfactory to the City. When the City has not undertaken improvement installation, it may, at its option, require the developer to furnish a financial statement satisfactory to the City.

E. Additional Final Plat Information.

1. Certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown thereof exist as located and that all dimensional and geodetic details are correct.
2. Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat, and the dedication of streets and other public areas.
3. Approval by signature of City and County officials concerned with the approval of the plat.
4. Form for approval of the Council as follows:  
Approved by the Council of the City of Brainerd  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
Signed \_\_\_\_\_ (Mayor)  
Attest \_\_\_\_\_ (City Administrator)

**500-5-2: Filing and Review of Application.**

- A. The final plat application shall be considered to be officially filed when City staff has received and examined the application and has determined that the application is complete.

- B. The Planning Commission shall consider the final plat and the Zoning Administrator shall forward the Planning Commission recommendations to the City Council.
- C. The following requirements shall be met before City Council consideration of the final plat:
  - 1. The final plat shall substantially conform to the approved preliminary plat and phasing plan.
  - 2. Completed development contract including all required financial securities and time frame for final plat and final grading.
  - 3. Conditions attached to approval of the preliminary plat shall be fulfilled or secured by the development agreement, as appropriate.
  - 4. All fees, charges, and escrow related to the preliminary or final plat shall be paid in full.
- D. The City Council shall act on the final plat by motion. The motion shall include findings-of-fact supporting the approval or denial, and shall be entered in the proceedings of the City Council. The lack of a majority Council vote to affirmatively approve the final plat shall be a denial of the requested application.
- E. Within sixty (60) days upon receiving a complete final plat application, the City Council shall certify final plat approval or denial. If the City Council approves the final plat, it may impose conditions it considers necessary to protect the public health, safety and welfare. If the City Council denies the final plat, it must state in writing the reasons for the denial at the time it denies the request.
- F. No site work, including grading, shall be allowed until final plat approval and recording.

**500-5-3: Form and Content.**

The final plat shall be of the form and content as prescribed in the Minnesota Land Surveyors Association Plat Manual of Minnesota Guidelines, as may be amended.

**500-5-4: Recording.**

If the final plat and development contract are approved by the City Council, the developer shall record the plat within ninety (90) days after the date of approval. Otherwise, the approval of the final plat shall be considered void, unless the developer requests and receives an extension from the City Council. The City may record the development contract immediately upon receipt of signatures.

**500-5-5: Record Plans.**

The developer shall submit to the City Engineering Department for review and approval, all proposals to change the original plans regarding road and utility construction, drainage, and stormwater management. The developer shall obtain written approval by the City prior to changes to the plans. The developer shall submit the following:

- A. One (1) mylar copy of the final plat.
- B. Seven (7) sets and one (1) digital electronic copy in a format compatible with the City's computer system of record plans indicating all changes in the work, including accurate as-built locations, dimensions, elevations, grades, slopes and all other pertinent information concerning the completed work.

## SECTION 6 ADMINISTRATIVE SUBDIVISIONS

The provisions of this section shall apply only to those subdivisions classified as administrative subdivisions.

### **500-6-1: Qualification.**

The following shall be considered an administrative subdivision:

- A. **Boundary Line Adjustment.** Divisions of land where the division is to permit the adding of a parcel of land to an abutting lot or the combination of recorded lots to form no more than two (2) lots. Newly created lots shall conform to the design and performance standards of the Brainerd Subdivision and Zoning Ordinances.
- B. **Property Split.** The simple division of a single parcel, tract or lot to create no more than two (2) lots and the newly created property line will not cause the remaining portion of the lot or any structure to be in violation with this Ordinance or the Brainerd Zoning Ordinance.
- C. **Base Lot Subdivision.** In the case of a request to divide a base lot upon which a two family dwelling, townhouse or a quadraminium, which is a part of a recorded plat where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this Ordinance, the Brainerd Zoning Ordinance, or the International Building Code (IBC).

### **500-6-2: Information Required for Administrative Subdivisions.**

Whenever any subdivision of land as outlined in Section 500-6-1 is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure on such proposed subdivision shall be granted, the subdividing owner or his authorized agent, shall file an application and secure approval of an administrative subdivision.

The administrative subdivision application shall be considered to be officially filed when the Zoning Administrator has received the application and has determined that the application is complete. Administrative subdivisions shall consist of maps and accompanying written documents. An owner or applicant shall submit an electronic copy and six (6) large scale copies and one (1) reduced scale copy eleven by seventeen inch (11" x 17") of detailed graphic materials to include the following information:

- 1. Scale (engineering only) one (1) inch equals one hundred (100) feet or less.

2. Name and address, including telephone number, of legal owner and/or agent of property.
3. North point indication.
4. Existing boundaries of parcel to be platted with dimensions and area and proposed new property lines with dimensions noted.
5. Existing legal description/proposed legal description of new lots.
6. Easements of record.
7. Delineated wetland boundary, to include the ordinary high water level (OHWL) of any lakes or Department of Natural Resources (DNR) waters, one hundred (100)-year flood elevations.
8. All encroachments, easements, or rights-of-way encumbering the property.
9. Existing buildings, structures, and improvements within the parcel to be platted and those one hundred (100) feet outside the boundaries of the subject parcel.
10. Locations, widths and names of all public streets, rights-of-way or railroad rights-of-way showing type, width and condition of the improvements, if any, which pass through and/or are within one hundred (100) feet.
11. Proposed driveway locations and locations of existing driveways on the same side of the road.
12. Location of any existing tile lines, abandoned wells, drainageways, waterways, water courses, lakes, and wetlands.
13. Additional preliminary plat data requirements determined appropriate by the Zoning Administrator.

Certificate of survey may be required and prepared by a licensed land surveyor.

### **500-6-3 Boundary Line Adjustment or Property Split**

In addition to the requirements of Section 500-6-2 the following information is required:

- A. The boundary and legal description of the lots as they are proposed to be adjusted or split.
- B. The boundary and legal description of any proposed easements on the property.

- C. Evidence that the property has both direct access onto an improved public street or City of Brainerd approved private street and compliance with the Comprehensive Plan.

**500-6-4: Filing and Review of Application.**

- A. Administration Subdivision Application. Applicant shall file an administrative subdivision application with all required information and accompanying fee with a schedule established by the City.
- B. Review of Report. Upon receipt of an application, the Zoning Administrator shall refer copies of the complete administrative subdivision application to City staff for review and the preparation of a report.
- C. Administration Subdivision. The Zoning Administrator shall have the authority to request additional information pertinent to the administrative subdivision. Failure to provide the necessary supportive information may be grounds for denial of the request.
- D. Decision. The Zoning Administrator shall reach a decision on the requested administrative subdivision within one hundred twenty (120) days of complete application, unless the applicant agrees to an extension of the review period.
  - 1. The Zoning Administrator may approve the administrative subdivision with conditions that must be met to insure the administrative subdivision is compliant with the regulations of the Brainerd Subdivision and Zoning Ordinances, as may be amended, and other applicable requirements.
  - 2. The Zoning Administrator shall prepare findings and deny a subdivision if the administrative subdivision is found to be premature as defined by the criteria of Section 500-2.5 of this Ordinance or fails to comply with regulations of the Brainerd Subdivision and Zoning Ordinances, as may be amended, or other applicable requirements.
- E. Decision Appeal. The applicant may appeal an administrative subdivision denial following the procedures outlined in Section 3 Administration-Enforcement and Appeals of the Brainerd Zoning Ordinance, as amended from time to time.

**500-6-5: Recording.**

The applicant shall record the deed, and the accompanying survey, in the County Recorder's Office within ninety (90) days after the date of approval, otherwise the approval of the administrative subdivision shall be considered void.

## SECTION 7 DESIGN STANDARDS

### **500-7-1: Conformity with the Comprehensive Plan and Zoning Ordinance.**

A proposed subdivision shall conform to the Comprehensive Plan, to related policies adopted by the City, and to the Brainerd Zoning Ordinance, as may be amended.

### **500-7-2: Land Requirements.**

- A. Land shall be suited to the purpose for which it is to be subdivided. No plan shall be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, adverse soil conditions, rock formations, or wetlands.
- B. Land subject to hazards to life, health, or property shall not be subdivided until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.
- C. Proposed subdivisions shall be coordinated with surrounding properties and/or neighborhoods, so that the City as a whole may develop efficiently and harmoniously.

### **500-7-3: Blocks.**

- A. Length. The maximum length of blocks shall be one thousand three hundred (1,300) feet and the minimum length of four hundred (400) feet. Blocks over nine hundred (900) feet long may require pedestrian ways at least ten (10) feet wide at their approximate center. The use of additional pedestrian ways to schools, parks, and other destinations may be required.
- B. Arrangement. A block shall be so designed as to provide two (2) tiers of lots unless it adjoins a major collector or an arterial street or where topographic wetland or other conditions render the block arrangement unreasonable.
- C. Block Width. The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth, except where topography or other conditions render the block depth unreasonable.

### **500-7-4: Lots.**

- A. Area. The minimum lot area, width and depth shall not be less than that established by the Brainerd Zoning Ordinance in effect at the time of adoption of the final plat. Minimum lot area for urban lots shall consist of buildable land and be exclusive of utility transmission easements that encumber lot development.

- B. Corner Lots. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets and a side yard buffer yard where the side yard abuts a collector or arterial street as required in the Brainerd Zoning Ordinance.
- C. Butt Lots. Butt lots shall be platted at least five (5) feet wider than the average width of interior lots in the block.
- D. Side Lot Lines. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- E. Width. Lots must have sufficient frontage on a public street to provide minimum lot width. Lot width shall be established by the Brainerd Zoning Ordinance and measured at the minimum front yard setback and at the setback from the OHWL of an abutting lake or stream and extending to the location of the principal building.
- F. Lot Frontage. All lots shall have frontage on a public street that provides the required lot width at the minimum front yard setback. Flag lots are prohibited.
- G. Building Sites. Each lot shall provide an adequate building site at least twelve (12) inches above the top of the adjacent curb unless approved by the City Engineer upon the basis of plans submitted showing alternative, acceptable surface drainage measures.
- H. Urban Single and Two Family Lot Access. All new single and two family urban lots shall be designed to receive access from a local street.
- I. Access to Arterial Streets and Major Collector Streets. In the case where a proposed plat is adjacent to a major collector or arterial street, said streets to be defined by the City's Comprehensive Plan, there shall be no direct vehicular access from individual urban single family or two-family lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways, arterial, or major collector streets where there is no other alternative, a temporary entrance may be granted, subject to terms and conditions defined by the City Council and applicable County or State agencies. As neighboring land becomes subdivided and more preferable access arrangements become possible, such temporary access permits shall become void. In such cases where direct lot access to major collector or arterial streets is allowed, special traffic safety measures including, but not limited to, provisions for on-site vehicle turn around shall be required. In cases where a proposed plat is adjacent to the County or State highway, the plat shall be subject to County and/or State approval.
- J. Lots fronting on an arterial or major collector street. New commercial, industrial, and multiple family lots fronting on an arterial or major collector street shall be designed to minimize the number of direct access points through the following methods listed in preferential order. If the highest preference is not possible, the next preference shall be utilized until an access method is possible.

1. Access from a local street.
  2. Frontage road serving multiple properties.
  3. Frontage driveway or connected parking lot, with cross easements serving multiple properties.
  4. Shared driveways.
  5. One driveway access, no closer than two hundred (200) feet to another driveway and that meets the City's minimum spacing standards from a street intersection. All driveways shall be reviewed for consistency with the policies of the Brainerd Comprehensive Plan.
- K. **Setback Lines.** Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the Brainerd Zoning Ordinance, as may be amended.
- L. **Water Courses.** Water courses may be contained within abutting lots. Water courses shall be protected by easement that will include a buffer strip extending outward from the delineated wetland boundary or the water course ordinary high water level as defined by Section 500-1-12 of this Ordinance. Lots with easements protecting water courses shall have sufficient dimensions and contiguous area outside the water course easement to meet or exceed the minimum lot area and width specified in the zoning chapter for the district in which the lots are located.
- M. **Grading for Drainage.** Lots shall be graded so as to provide drainage away from building locations and shall conform to the approved final grading plan. Storm water drainage from an improved subdivision or lot shall not be directed at an adjoining property at a rate above a predevelopment condition except where drainage is directed to a designed drainage easement.
- N. **Features.** In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic places or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- O. **Frontage on Two Streets.** Double frontage, or lots with frontage on two (2) parallel streets shall not be permitted except where lots back on major collector or arterial streets, County or State highways, or where topographic or other conditions render subdividing otherwise unreasonable. Double fronting lots that have a yard abutting a collector or arterial street shall have a twenty (20) foot wide landscaped buffer yard abutting said collector or arterial street. The yard shall be planted with landscape material that meets the minimum requirements listed in Section 20 of the Brainerd Zoning Ordinance.

- P. Irregular Shaped Lots. On single family residential lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the City an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.
- Q. Lot Remnants/Outlots. All remnants of lots below minimum lot size left over after subdividing a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels. Outlots may be platted within a subdivision to delineate future development phases or commonly owned open spaces. The outlot shall be sized in a manner to accommodate its intended use. An outlot shall be platted into a lot and block prior to issuance of a building permit. No building permits shall be issued for an outlot except for open air structures allowed as a recreational component in an open space area.
- R. Extraterritorial Design Standards. In areas lying outside the City but within the jurisdiction of this section, the following additional minimum subdivision standards shall be required. The size of lots shall be determined by on-site soil percolation tests conducted by a recognized soil testing service utilizing sound engineering practices, but in no case shall a lot contain less than fifteen thousand (15,000) square feet in area nor less than one hundred (100) feet in width measured between the side lot lines at a setback distance of thirty (30) feet from the front lot line.

**500-7-5: Street and Alleys.**

- A. Street Plan. The arrangement, character, extent, width, grade and location and all streets shall conform to the comprehensive development plan and to this section, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to drainage patterns, to public convenience and safety and in their appropriate relationship to the proposed uses of the land and to be served by such streets.
- B. Streets, Continuous. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of major collector and arterial streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served in compliance with the Brainerd Comprehensive Plan.
- C. Street Plans for Future Subdivisions. Where the plat application includes only part of the tract owned or intended for development by the subdivider, or abuts an undeveloped tract, a build out plan (ghost plat) illustrating a proposed future street system for the unsubdivided tract, prepared and submitted by the subdivider, may be required by the City.

- D. Provisions for Resubdivision of Large Lots and Parcels. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
- E. Local Streets and Dead End Streets. Local streets should be so planned as to discourage their use by non-local traffic. Dead end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not be longer than five hundred (500) feet, including a terminal turn around which shall be provided at the closed end, with a right-of-way radius of not less than sixty (60) feet. A forty-five (45) foot street radius will be required on all cul-de-sacs.
- F. Temporary Cul-de-Sac. In those instances where a street is terminated pending future extension in conjunction with future subdivision and the street segment is more than two hundred (200) feet between the dead-end and the nearest intersection, a temporary turn around facility shall be provided at the closed end, in conformance with cul-de-sac requirements. This temporary cul-de-sac must be placed inside a temporary roadway easement if it is located outside street right-of-way. Financial guarantee will be required for removal or restoration as determined by the City Engineer.
- G. Subdivisions Abutting Major Rights-of-Way. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or State highway, County road, local major collector, or local arterial street, provision may be made for a service street approximately parallel and adjacent to the boundary of such right-of-way; provided that due consideration is given to proper circulation design, setbacks from an intersection on the major rights-of-way, or for a street at a distance suitable for the appropriate use of land between such street and right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.
- H. Compliance with the Brainerd Comprehensive Plan. All subdivisions incorporating streets which are identified in the City Comprehensive Plan, as amended, shall comply with the minimum right-of-way, surface width, and design standards as outlined in this Ordinance, and must be reviewed and approved by the City Engineer.
- I. Dedication. All proposed streets shown on the plat shall be in conformity to City, County, and State plans and standards and be offered for dedication as public streets unless otherwise determined by the City Council.
- J. Street Design. Design of street rights-of-way shall conform to the following minimum standards:

Road Type	ADT	Width		Number Traffic Lanes	Number Park Lanes	% Grade	
		R.O.W.	Street <sup>1</sup>			Min	Max
<b>Local Street:</b>							
Alley (Ind/Com)	150	24 ft	20 ft	2	0	.5	8
Alley (residential)	150	20 ft	16 ft	2	0	.5	8
Marginal Access	300	50 ft	28 ft	2	0	.5	6
Minor Streets Cul-de-sac Low Density	300	70 ft	32 ft	2	2	.5	7
Medium Volumes	300-1,000	80 ft	35 ft	2	2	.5	7
<b>Minor Collector</b>	1,000-1,500	80 ft	36 ft	2	1	.5	7
<b>Major Collector:</b>							
Low	1,500	80 ft	44 ft	2	2	.5	4
Medium	1,500-5,000	80 ft	44 ft	2	2	.5	4
High	5,000	100	66 ft	4	0	.5	4
<b>Arterial:</b>							
Low	10,000	120 ft <sup>3</sup>	66 ft	4	0	.5	4
Medium	10,000-15,000	120 ft <sup>3</sup>	66 ft	4	0	.5	4
High <sup>2</sup>	15,000	120 ft <sup>3</sup>	2 @ 28 ft	4	0	.5	4

<sup>1</sup> Face of curb to face of curb

<sup>3</sup> At major intersections increase to 150 feet

<sup>2</sup> Parkway design (optional for medium arterial)

NOTE: The actual right-of-way width will be determined by the City Council after considering all characteristics of the adjacent development.

Private streets shall have a minimum twenty-eight (28) foot width and be signed as No Parking and have adequate maneuvering area for large trucks and vehicles (fire equipment, refuse, Dial-A-Ride etc.)

- K. **Additional Right-of-Way.** Additional right-of-way and roadway widths may be required by the Council to promote public safety and convenience when special conditions require it. Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the standards of this Ordinance.
- L. **Half Streets.** Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder shall be considered in this decision. No permanent street improvement shall be permitted within a half street right-of-way. All lots having frontage or access solely from a half street are prohibited from being eligible for building permits.
- M. **Alley Location Requirements.** Either a public or private alley shall be provided in a block where commercially zoned property abuts a major or local thoroughfare.

- N. **Marginal Access Streets.** Where a subdivision abuts or contains an existing or planned major thoroughfare or a railroad right-of-way, the Council may require a street approximately parallel to and on either side of such right-of-way for adequate protection of residential properties and to afford separation of through and local traffic. Such marginal access streets shall be located at such a distance from the major thoroughfare or railroad right-of-way as to allow for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in the appropriate districts. Such distances shall also be determined with due regard for the requirements for approach grades and future grade separations.
- O. **Curb Radius.** The minimum curb radii for thoroughfares, collector streets, local streets, and alleys shall be as follows:
- a. **Arterial Streets and Collector Streets:** Twenty-five (25) feet.
  - b. **Local Streets:** Twenty (20) feet.
  - c. **Alleys:** Ten (10) feet.
- P. **Vertical Curves.** Different connecting street gradients shall be connected with vertical curves. Minimum lengths of these curves shall conform to the standards specified in Table A, Sheet 5 291.231 of the Minnesota Highway Road Design Manual, as amended.
- Q. **Reverse Curves.** Minimum design standards for collector and arterial streets shall comply with Minnesota Department of Transportation State Aid standards.
- R. **Street Intersections.** Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two (2) streets be less than seventy-five (75) degrees. Intersections having more than four (4) corners shall be prohibited if not controlled by a roundabout. Adequate land for future intersection construction needs shall be dedicated.
- S. **Tangents.** A tangent of at least one hundred (100) feet shall be introduced between reverse curves on arterial and collector streets. The tangent lengths may be longer if a transition between super-elevated section is required.
- T. **Deflections.** When connection street lines deflect from each other at one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than five hundred (500) feet for arterials, three hundred (300) feet for collectors, and one hundred (100) feet for all other streets. The City Council may allow greater or lesser sight distances.
- U. **Street Intersection Offsets (Jogs).** Street intersection jogs with centerline offsets of less than one hundred fifty (150) feet shall be prohibited.

- V. Centerline Curvature. The minimum horizontal curvature of collector and arterial streets shall be in accordance with the MnDOT Highway Design Manual for the type of street and design speed.
- W. Streets in Flood Hazard Area. No street shall be approved if its final surface is at a lower elevation than two (2) feet below the regulatory flood protection elevation. The City Council shall require profiles and elevations of finished streets for areas subject to flooding. Fill may be used for streets, provided such fill does not unduly increase flood heights and provided any such fill would not result in a stage increase violating the requirements of the Brainerd Floodplain Ordinance, as may be amended.
- X. Reserve Strips. Reserve strips controlling access to streets shall be prohibited.
- Y. Private Streets. Private Streets, except in the case of planned unit developments, shall be prohibited and no public improvements shall be approved for any private street. All private streets within an approved PUD shall meet the construction design standards for City streets.
- Z. Curb and Gutter. All urban streets, and all streets in commercial and industrial areas, shall have concrete curb and gutter in compliance with established City standard design detail plates.

**500-7-6: Sidewalks and Trails.**

- A. Concrete Sidewalks. Concrete sidewalks in new developments not less than six (6) feet in width, ten (10) feet in commercial zoning districts, and/or bituminous trails not less than ten (10) feet in width shall be provided in accordance with the following:

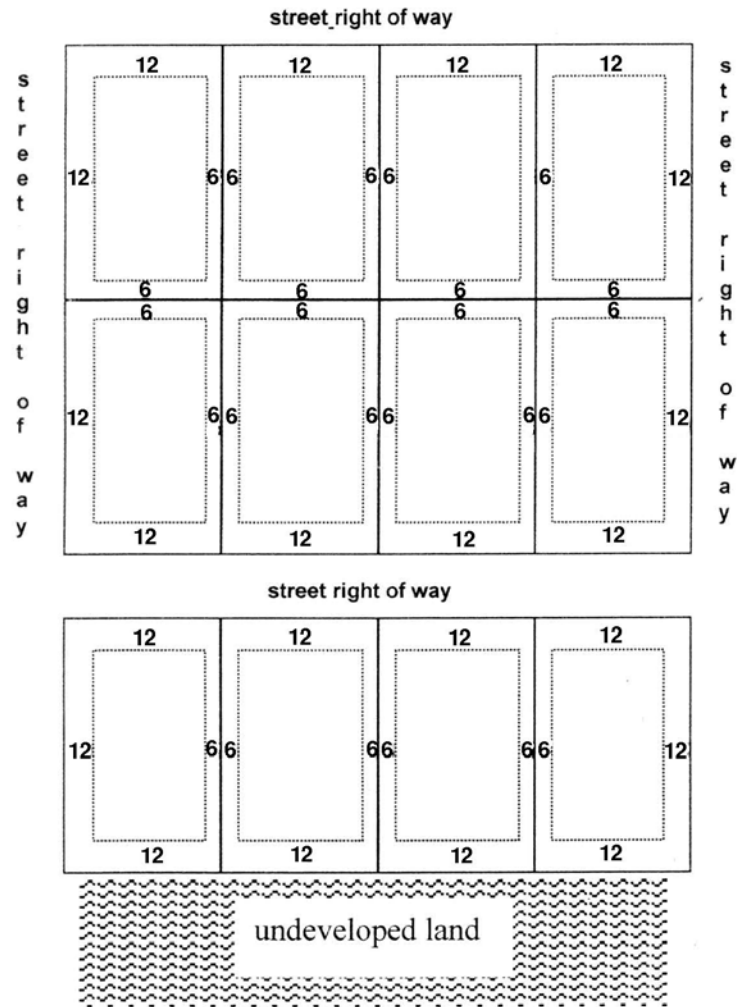
<u>Street Type</u>	<u>Sidewalk/Trail Requirements</u>
Arterial and Major Collector	Sidewalk on both sides of the street or sidewalk on one (1) side of the street and trail on the other side of the street if part of a larger trail network.*
Minor Collector and Local Streets, excepting Cul-de-sacs	Sidewalk on both sides of street and if a trail is part of a minor collector that alternate sidewalk and trail would also apply*
Cul-de-sacs	Sidewalk around cul-de-sac*
Industrial	Either/or sidewalks/trails*

\*The sidewalks shall not be located less than one (1) foot from the property line, not be adjacent to the curb, except as may be permitted in commercial areas to provide a green strip for snow storage, to promote pedestrian safety, and to provide for boulevard trees.

- B. Sidewalk/Trail Grades. Sidewalks shall slope one-fourth (1/4) of an inch per one (1) foot away from the property line and the profile grade shall conform to street grades.
- C. Pedestrian Ways. In blocks over nine hundred (900) feet long, pedestrian crosswalks through the blocks located within a public right-of-way at least ten (10) feet wide, may be required by the City Council in locations deemed necessary for the public health, safety, convenience and necessity.

**500-7-7: Easements.**

- A. Width and Location. An easement for utilities at least twelve (12) feet wide along front and rear lot lines and six (6) feet wide along all abutting side lot lines shall be provided. An easement for utilities not less than twelve (12) feet wide shall be provided adjacent to all plat boundaries. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.



- B. Drainage. Easements shall be provided along each side of the centerline of any waterway or drainage channel of a sufficient width to provide proper maintenance and protection, and to provide for stormwater runoff and installation and maintenance of drainage systems. Where necessary, drainage easements corresponding with lot lines shall be provided. Such easements for drainage purposes shall not be less than twenty (20) feet in width.
- C. Continuous Utility Easement Locations. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.
- D. Guy Wires. Additional easements for pole guys should be provided, when appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys fall along side lot lines.

**500-7-8: Public Utilities.**

- A. Water Supply. Extensions of the public water supply system shall be designed so as to provide public water service to each lot. The design of said extensions shall be in accordance with the standards of the City.
- B. Sewage Disposal. Extension of the public sanitary sewer system shall be designed so as to provide sewer service to each lot. The design of such extensions shall be in accordance with the applicable standards of the City, County and State.
- C. Public Utilities Placement. Telephone, electric, cable, gas service lines and/or other public utilities are to be placed underground in accordance with City standards.
  - 1. Developers shall apply for City permits to install underground utilities in public rights-of-way.
  - 2. The City shall approve all utilities prior to installation.
  - 3. Public utilities shall be installed in a joint trench in accordance with City standards.
  - 4. Conduit shall be installed for all road crossings.
  - 5. Public utility installation, except street light wires, shall not occur until one (1) week after all curb has been backfilled.
  - 6. Any utility not installed in a joint trench shall not be allowed installation for five (5) years following the joint trench installation.

**500-7-9: Storm Water Management and Erosion and Sediment Control.**

- A. Drainage. The natural drainage shall be used as far as is feasible for the storage and flow of runoff. The design of a drainage system shall conform to any overall storm water drainage plan for the area. The following requirements shall also apply:
1. Storm water drainage shall be consistent with policies and standards of the Brainerd Storm Water Standards, as may be amended.
  2. No existing ditch, stream, drain or drainage channel shall be deepened, widened, re-routed or filled without written permission from the City and other governmental agencies.
  3. Where drainage channels must be constructed to augment the natural drainage system, such channels, as well as the natural drainageways, may be planned as a part of a recreational trail system. When this is done, channels shall be designed to be aesthetically compatible for recreational trail use.
- B. Subdivision Grading, Drainage, and Wetland Mitigation Plans. The City shall approve all subdivision grading, drainage, and wetland mitigation plans. All individual lots shall be graded after construction to conform with the approved final grading and drainage plans.
- C. Erosion and Sediment Control.
1. Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to grading when necessary to control erosion.
  2. Land shall be developed in increments of workable sizes such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
  3. When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement.
  4. Where the top soil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. Top soil shall be restored or provided to a depth of three (3) inches and shall be of a quality at least equal to the soil quality prior to development.
  5. Native vegetation shall be protected wherever practical.
  6. Based upon the review and recommendation of the City Engineer, it may be necessary to divert runoff water to a sedimentation basin before being allowed to enter the natural drainage system.

7. For subdivisions which shall disturb one (1) or more acre of land, the subdivider shall submit a NPDES permit application and a Stormwater Pollution Prevention Plan (SWPPP) to the Minnesota Pollution Control Agency (MPCA).

**500-7-10: Protected Areas.**

Where land proposed for subdivision is deemed environmentally sensitive by the City, due to the existence of wetlands, drainageways, watercourses, floodable areas or steep slopes, the design of said subdivision shall clearly reflect all necessary measures of protection to insure against adverse environmental impact.

Based upon the necessity to control and maintain certain sensitive areas, the City shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots.

In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction on slopes over thirty (30) percent, or result in significant alteration to the wetlands, floodplains, or natural drainage systems, such that adverse impacts cannot be contained within the plat boundary.

**500-7-11: Signs.**

- A. Signs. As part of preliminary plat application, the subdivider shall identify all signs associated with the proposed plat including, but not limited to, neighborhood identification signs, street signs, traffic control signs, wetland demarcation signs, or other signs related to the proposed subdivision. The type, size and location of signs shall be subject to approval of the City. Installation shall be at the expense of the developer.
- B. Street Names. Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted street, in which event it shall bear the same name of the existing or platted street so in alignment.

## SECTION 8 PUBLIC LAND DEDICATION

### **500-8-1: Property Dedication.**

- A. A portion of any subdivision shall dedicate to the City a reasonable portion of the proposed subdivision for public streets, roads, utility easements, water facilities, storm water drainage and holding areas or ponds and other similar utilities and improvements.
- B. As a prerequisite to any subdivision approval and at the sole determination by the City, applicants and/or developers shall dedicate land for parks, playgrounds, public open spaces and/or trails and/or shall make a cash contribution to the City's park dedication fund roughly related to the anticipated effect of the subdivision on the park system. The requirement may also be met with a combination of land and cash if approved by the City Council.
- C. All subdivisions of land within the corporate limits of the City of Brainerd hereafter submitted for approval shall fully comply in all respects with the regulations set forth herein. Plans for all commercial and industrial developments shall be presented in the same manner as a subdivision. Plans for planned unit developments for housing, commercial, industrial or other uses or for any combination of uses designed for sale or rental purposes shall be presented in the same manner as subdivisions for the review by the Planning Commission and the approval of the City Council.
- D. Land shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location, and future park needs pursuant to the Comprehensive Park Plan. Wetlands, ponding areas, and drainage ways shall not be eligible for park dedication credit. Park land to be dedicated shall be above the ordinary high water level. Grades exceeding twelve (12) percent or areas unsuitable for park development shall not be considered for dedication. Land with trash, junk, pollutants and/or unwanted structures is not acceptable.
- E. The applicant shall confer with City Staff and the Park Board at the time the preliminary plat is under consideration, to secure a recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds or other public property. The preliminary plat shall show the location and dimensions of all areas to be dedicated in this manner. Such contribution requirement recommendation(s) will be sent to the Planning Commission for review and comment and subsequently to the City Council for their approval.
- F. When a proposed park, playground, recreation area or other public ground has been indicated in the City's official map or Comprehensive Park Plan and is located in whole or in part within a proposed plat, it shall be dedicated to the appropriate governmental unit. If the

applicant elects not to dedicate an area in excess of the land required hereunder for such proposed public site, the City may consider acquiring the excess land through purchase or condemnation.

- G. The City, upon consideration of the particular type of development, may require that a lesser parcel of land should be dedicated due to particular features of the development. In such cases, a cash contribution shall be required above the land dedication to ensure that compensation is received for the full amount of the impact on the City's park and trail system.
- H. In all new residential, commercial and industrial subdivisions, seven (7) percent of the area subdivided shall be dedicated for public park land. This seven (7) percent shall be calculated on the gross area of the subdivision. The land dedicated for public recreation shall be in addition to property dedicated for streets, alleys, trails, easements, or other public ways. No areas may be dedicated for public use until such areas have been approved by the City Council as suitable and necessary for the health, safety, convenience and general welfare of the City.

**500-8-2: Land and Fee Contribution.**

- A. The City may elect at its sole discretion to receive a combination of cash, land, and/or development of the land for park use. Combined park land and cash dedications shall be calculated based upon the following:
  - 1. Yield Plan. At the time of subdivision, a yield plan will be prepared demonstrating the total number of units/lots possible within the development without a park. This figure is then multiplied by the per unit or per lot park dedication charge (established by City Council ordinance). The result of this calculation is equal to the total cash value of the park dedication for the residential project. The formula is outlined as follows:
    - a.  $\text{Buildable Acres (less wetlands, right-of-way, natural waterbodies etc.)} \times \text{Average Density} = \text{Number of Units or Lots.}$
    - b.  $\text{Number of Units or Lots} \times \text{Residential Unit Cash Charge} = \text{Total Cash Contribution for the Subdivision.}$
  - 2. Land Value Determination. The value of the land dedication is determined based upon the following formula:
    - a.  $\text{Total Land Dedication Acres} \times \text{Land Value} = \text{Total Land Value}$
  - 3. Dedication Requirement. To determine the combined land and cash dedication requirement, the following formula should be used:

- a. Total Cash Contribution for Subdivision – Land Value for Park Land = Balance of Cash Contribution.
- B. Planned Unit Developments with mixed land uses shall make cash and/or land contributions in accordance with this Section based upon the percentage of land devoted to the various uses.

**500-8-3: Fee in Lieu of Land Dedication.**

- A. The City may elect, at its sole discretion, to require a payment of park dedication fee in lieu of a land dedication.
- B. The City Council shall require that the subdivider contribute an amount in cash as the park dedication fee according to the following fee schedule as specified in Section 1015 Permit and Fees of the City Code:
  - 1. If any of the fees are determined by any Court to be invalid for any reason whatsoever, the park dedication fee shall be the fair market value of the land to be subdivided. For the purposes of this section, “fair market value” means a price that a willing buyer would pay and a willing seller would accept for the property at the time of acceptance of the final plat including, but not limited to, zoning, public and subdivider improvements or other factors as determined by the County Assessor but excluding any buildings or structures located thereon.
- C. Park Dedication Fees shall be deposited in the Park Dedication Fund and be used solely for the development of, and improvements to, existing or future parks, and will not be used for maintenance, repair and other “daily” expenses. The Park Board shall make a recommendation to the City Council as to the location of any sites or improvements to be funded with such park dedication fees in said Park Capital Fund.
- D. This Section shall apply to all new development, redevelopment, lot combination/redivisions meant to facilitate development, and expansion of residential or commercial/industrial/business use. It shall not apply to lot combination/redivisions which do not increase the number of single family residential lots or units, conversion of apartments to condominiums, or internal leasehold improvements.
- E. Park fee contributions are to be calculated and paid at time of final plat. Cash dedications shall be included in the development agreement and paid prior to the City’s signature of and release of the final plat. For subdivisions that do not require a development agreement, the cash dedication shall be paid before the City releases the signed approval of the subdivision for recording.

**500-8-4: Park Dedication Appeals.**

If the applicant or developer does not believe that the estimates contained in this Section fairly and accurately represent the effect of the subdivision on the park system of the City, the applicant or developer may request that the City prepare an in-depth study of the effect of the subdivision on the park system and an estimate of that effect in money and/or land. All costs of such study shall be paid by the developer or applicant. If the developer requests the preparation of such a study, no application for the development shall be deemed complete until the study has been completed and a determination is made as to the appropriate amount of land or money necessary to offset the effects of the subdivision.

SECTION 9  
RESERVED

SECTION 10  
RESERVED

## SECTION 11 IMPROVEMENTS

### **500-11-1: Required Public Improvements.**

No final plat shall be approved by the Council without first receiving a report from the City Engineer certifying that the improvements and construction of the land, streets, and trails, together with all other necessary facilities in the plat have been designed and satisfactorily arranged in accordance with provisions of the City's development regulations, design standards, and conditions of subdivision approval. In addition to construction on land, streets, and trails, the developer, as part of the final plat, shall install and pay for light poles, fixtures and street name signs as approved by the Council for Brainerd and the City utility. Such installations shall be completed before the street is surfaced. The following is a detailed description of public improvements required to be completed for each final plat:

- A. Grading, drainage, wetland mitigation, and erosion control. A grading permit is required by the City of Brainerd.
- B. Storm sewer.
- C. Sanitary sewer facilities.
- D. Water facilities.
- E. Public utilities.
- F. Sidewalks and trails.
- G. Streets.
- H. Street and traffic signs.
- I. Street lights.
- J. Subdivision monuments.

### **500-11-2: Grading and Drainage.**

The grade and drainage requirements for each plat shall be approved by the City Engineer at the expense of the applicant. Every plat presented for final signature shall be accompanied by a certificate of the City Engineer that the grade and drainage requirements have been met on the grading plan. The grading and drainage plans shall include wetland mitigation, erosion and sediment control, and tree preservation.

**500-11-3: Storm Sewer.**

- A. In an area not having municipal storm sewer, the applicant shall be responsible, before platting, to provide for a storm water disposal plan, without damage to properties outside the platted area, and said storm water disposal plan shall be submitted to the City Engineer, who shall report to the City Council on the feasibility of the plan presented. No plat shall be approved before an adequate storm water disposal plan is presented and approved by the City Council. The use of dry wells for the purpose of storm water disposal is prohibited.
- B. If the City Council, upon the recommendation of the City Engineer, determines that it is feasible for the subdivider to install storm sewers connected to the existing storm sewer system of the City within or adjacent to the subdivision, or an extension of the City system. A stormwater plan must be provided for review and approval of the City.

**500-11-4: Sanitary Sewer and Water Distribution Improvements.**

- A. Sanitary sewers shall be installed in accordance with the standards and specifications as required by the City Council and subject to the approval of the City Engineer.
- B. Water from Brainerd Public Utilities shall be installed in accordance with the standards and specifications as required by the Public Utilities Department and subject to the approval of the Public Utility Superintendent.
- C. Water service and sanitary sewer mains and service connections stubbed into the property line shall be provided to serve all the lots in residential subdivisions and shall be connected to the existing City water and sewer system.

**500-11-5: Public Utilities.**

Telephone, electric, cable TV, and/or gas service lines are to be placed underground in accordance with the provisions of all applicable City Ordinance except where extreme conditions prohibit and a variance from this requirement is authorized by the Planning Commission upon the advice of the Public Utilities Commission. All necessary utility easements must be recorded prior to utility installation.

**500-11-6: Sidewalks/Trails.**

Concrete sidewalks of not less than six (6) feet in width or bituminous trails of not less than ten (10) feet in width shall be provided in accordance with Section 500-7-6 of this Ordinance.

**500-11-7: Street Improvements.**

- A. The full width of the right-of-way shall be graded in accordance with the provisions for construction as outlined in Section 500-7-5 of this Ordinance, Design Standards.
- B. All streets shall be improved in accordance with the standards and specifications for street construction as required by the City Council.
- C. All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portion of the right-of-way outside the area surfaced shall be seeded, sodded, or ripped by the developer. Temporary seeding of oats and mulch will be required on all disturbed areas over winter, by November 1<sup>st</sup>. Slopes that are three to one (3:1) or greater need wood fiber blankets.
- D. Where required, the concrete curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the City Council.
- E. Trees and boulevard sodding shall be planted in conformance with the standards and specifications as required by the City Council.
- F. Street signs of the design approved by the City Council shall be installed at each street intersection.
- G. Driveway approaches and sidewalks of standard design or pedestrian pathways as may be required by the City Council shall be installed.
- H. Street lighting fixtures as may be required by the City Council shall be installed by Brainerd Public Utilities. Street lights are required at:
  - 1. Intersections.
  - 2. Change in right of way elevation.
  - 3. Change in right of way direction.
  - 4. Other locations specified by the City Council.

Street lights shall be standard Brainerd Public Utilities street lights.

- I. No street dedications will be accepted which require a crossing of a railroad unless sufficient land as determined by the City Council is dedicated to insure a safe sight distance.

**500-11-8: Monuments.**

- A. Official monuments, as designated and adopted by the Crow Wing County Surveyor's Office and approved by the Crow Wing County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.
- B. Proper survey monumentation shall be placed at each lot corner and points of curvature and tangency along street rights-of-way. All Federal, State, County, or other official benchmarks, monuments, or triangular stations or in adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys, shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.
- C. To insure that all irons and monuments are correctly in place following the final grading of a plat, a second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be a condition of certificate of occupancy as provided for in the City Zoning Ordinance, as may be amended.
- D. All lot corners and survey control monuments shall be set and in place at the time the plat is recorded. An exception to this requirement may be granted for up to one (1) year by the City Council, provided such approval is made part of the development contract and a financial guarantee in a form determined by the City Attorney is provided.

**500-11-9: Required Private Improvements.**

As part of the final plat, the following private improvements shall be required where applicable to a new subdivision:

- A. Required Landscaping
  - 1. The developer shall post financial securities to allow for the placement of sod from the edge of the street to the front building line of the building. Sod must be in place within twenty-one (21) days of building occupancy.
  - 2. The developer shall provide a detailed landscape plan for required buffer yards. Buffer yard landscaping shall meet the design standards of Section 20 Landscaping, Green Space and Screening Requirements of the Brainerd Zoning Ordinance. Buffer yard landscaping shall be installed within one (1) year of final plat approval and guaranteed for one (1) year after installation.

3. The developer shall submit a detailed landscape plan illustrating wetland restoration in conjunction with wetland mitigation plans. All wetland landscaping shall be installed within one (1) year of final plat approval and guaranteed for one (1) year after installation.

B. Wetland Boundary Markers

Where lots abut or contain wetlands, the applicant shall place boundary markers along the delineated wetland buffer. The type and location of wetland boundary markers shall be reviewed and approved with the preliminary plat.

**500-11-10: Public Improvement Installation.**

Public improvements associated with the subdivision shall be installed in accordance with one of the following methods:

A. Private Installation.

1. Prior to the installation of any required improvements by the applicant and prior to approval of the final plat, the applicant shall enter into a development agreement in writing with the City requiring the applicant/developer to furnish and construct said improvements at their sole cost and in accordance with approved plans and specifications and usual agreement conditions. This shall include provisions for inspection of the construction of the public improvements by the City Engineer and other City staff.
2. The development agreement shall require the applicant to post a financial security consisting of an escrow deposit, irrevocable letter of credit, or a certified check with the City, guaranteeing performance in accordance with the terms of the development agreement. The type and conditions of the financial security must be reviewed and approved by the City Attorney. The amount of the security is to be based on the project's estimate of the total cost of the improvements to be furnished under the agreement, including but not limited to, sanitary sewer, water main, on-site storm sewer, streets, grading, drainage, wetland mitigation, erosion control, street and traffic signs, street lights, sidewalks, trails, monumentation, engineering, surveying, planning, City administration and legal costs. The project costs must be reviewed by City staff. The security amount shall equal one hundred fifteen (115) percent of the project estimate.
3. If evidence is presented that the described work and improvements have been paid for, the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat.

4. The schedule for completion of the work described in the final plat and the development agreement shall be determined by the City Council, upon recommendation of the engineer after consultation with the applicant. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper coordination with construction activities in the plat and subdivision.
5. Improvements shall be constructed only in platted real estate.
6. No applicant/developer shall be permitted to start work on any subdivision improvements without entering into a development agreement and posting a City approved financial security.

**B. City Installation.**

1. Any person desiring to have utility and street improvements installed may request the City to install them, if such request is accompanied by a petition of one hundred (100) percent of the land owners and a waiver of assessment appeal, subject to the following conditions and to the approval and authorization thereof by the City Council and as authorized by State law.
2. If so approved by the City Council, the person requesting the installation of said utility and street improvements shall supply a security approved by the City running to the City guaranteeing payment for the installation of the improvements in an amount based on the City Engineer's estimate of the total cost of the improvements to be installed. The security amount shall equal five (5) years special assessments held until fifty (50) percent of the project special assessments have been paid. At such time, the City may reduce the amount of security required of the developer in amounts equivalent to subsequent assessments for which payment has been made.
3. Improvements shall be constructed only in platted real estate.
4. No applicant/developer shall be permitted to start work on any subdivision improvements without entering into a development agreement and posting a City approved financial security.

**500-11-11: Development Agreement.**

Prior to installation of any required improvements and prior to approval of the final plat, the developer shall enter into a development agreement in writing with the City requiring the developer to furnish and construct said improvements in accordance with plans and specifications and usual agreement conditions and/or pay appropriate costs for improvements or other costs associated with the plat. Further, the agreement shall provide for the development of any restrictions, covenants, easements, signage, park or open space requirements, or other conditions of the approved preliminary plat and provide for the proper execution, recording or other action required. In

addition, the development agreement shall include such other terms and conditions as required by the City. Approval of the development agreement shall be by City Council resolution.

- A. The signed development agreement shall be recorded with the final plat and shall be binding upon the developer, his or their heirs, personal representative, and assigns stipulating:
  - 1. All improvements called for in the plat, or in any supplementary agreements, to be complete within the time specified by the City.
  - 2. Unless approved by the City Council, no private construction shall be conducted on any lots in the plat or filing of applications for building permits for said construction on said lots, until all improvements required under the City regulations for the proposed subdivision have been made or arranged in a manner provided for in this section.
- B. The development agreement shall include provisions for construction work inspection by the City and assurance that the developer will conform with current testing requirements and quality control procedures of the City of Brainerd. The developer shall provide documentation from a qualified testing laboratory and/or registered professional engineer that all improvements have been constructed in accordance with the requirements of the approved plans and specifications.
- C. The development agreement shall require the developer to provide a financial security to ensure payment of fees related to the subdivision and completion of all improvements as provided in Section 500-10-10 of this Ordinance.
- D. A time schedule for completion of the work shall be determined by the City upon recommendation of the City Engineer after consultation with the developer and shall be reasonable in relation to the work to be done, the seasons of the year, and proper coordination with construction activity in the subdivision.
- E. The development agreement shall include action remedies in the event of default including:
  - 1. The City may complete the improvements by contract or force and obtain reimbursement of its costs from the posted security deposit.
  - 2. The City reserves the right to withhold building permits for violation of any terms of the development agreement.

**500-11-12: Construction Plans.**

Construction plans for the required improvements shall conform in all respects with all applicable ordinances and standards of the City. Construction documents shall be prepared, at the expense of the developer, by a licensed professional who is registered in the State of Minnesota, and said plans

shall contain his certification. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for his approval and for his estimate of the total cost of the required improvements. Upon approval, they shall become a part of the development agreement. A minimum of five (5) copies of the construction plans shall be furnished to the City for City Engineer review and approval. Additional copies may be required by the City.

**500-11-13: Maintenance of Improvements.**

The developer shall be required to maintain all improvements in the subdivision or on the individual subdivided lots and provide for snow removal and maintenance of streets, if required, until acceptance of said improvements by the City Council in coordination with the development agreement.

## SECTION 12 ENFORCEMENT

### **500-12-1:   Violations.**

The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to fine or imprisonment or both, as set forth in Minnesota Statutes plus, in either case, the cost of prosecution.

- A.   Sale of Lots From Unrecorded Plats.   It shall be misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of this Ordinance, unless said plan, plat or replat shall have first been recorded in the Office of the Recorder of Crow Wing County.
  
- B.   Receiving or Recording Unapproved Plats.   It shall be unlawful for a private individual to receive or record in any public office any plans, plats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Ordinance, unless the same shall bear thereon, be endorsement or otherwise, the approval of the City Council.
  
- C.   Misrepresentations.   It shall be a misdemeanor for any person owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.

### **500-12-2:   Penalties.**

Anyone violating any of the provisions of this Ordinance shall be guilty of a misdemeanor. Each month during which compliance is delayed shall constitute a separate offense.

### **500-12-3:   Application to City Personnel.**

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

**500-12-4: Injunction.**

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

SECTION 13  
SEVERABILITY AND SUPREMACY

**500-13-1: Severability.**

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

If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other properties, buildings or structures.

**500-13-2: Supremacy.**

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

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

SECTION 14  
EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_ Mayor

Attest:

\_\_\_\_\_ City Clerk

\_\_\_\_\_ City Attorney