

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.

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.