

BRAINERD, MN
Chapter 515 ZONING

515-6 RULES AND DEFINITIONS.

515-6-1. Rules.

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

1. The singular number includes the plural, and the plural includes the singular.
2. The present tense includes the past and future tenses, and the future to the present.
3. The words "shall" and "must" are mandatory, and the word "may" is permissive.
4. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition.
5. All measured distances expressed in feet shall be to the nearest tenth of a foot.
6. In the event of conflicting provisions, the more restrictive provisions shall apply.
7. For terminology not defined in this Section, the most current Merriam Webster's dictionary shall be used to define such terms.

515-6-2. Definitions. The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

A. **Definitions of Nouns, Person, and Regulatory Bodies.** The following definitions are provided to describe persons, regulatory bodies and agencies referenced throughout this Ordinance.

1. **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.
2. **Board of Zoning and Appeals.** Brainerd City Council.
3. **Builder.** Any person or entity to which a building permit is issued for the construction of a single-family residence.
4. **Business.** Any occupation, employment, or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
5. **City.** City of Brainerd.
6. **County.** Crow Wing County, Minnesota.
7. **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.
8. **MPCA.** Minnesota Pollution Control Agency.
9. **MnDOT.** Minnesota Department of Transportation.
10. **Owner.** Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one (1) year, a dominant easement interest, or an option to purchase any of same, but not including owners or interests held for security purposes only.
11. **Public Notices.** Official notice posted by public officers, employees, or their agents in the performance of their duties, or as directed by such officers, employees, or agents.
12. **Planning Commission.** The Planning Commission of Brainerd.

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

B. Definitions of Structure, Measurement and Dimension.

- 1. Abut (includes abuts and abutting).** To be next to, or to share a common boundary. “Abutting” includes across a street. “Abutting” does not include properties that touch only corner to corner
- 2. Accessory Building or Structure.** A subordinate building or structure which is located on the same lot as the Principal Structure which is reasonably necessary and incidental to the conduct of the primary use of such Principal Structure.
- 3. Accessory Dwelling Unit (ADU).** A smaller, independent residential dwelling unit located on the same lot as a stand along principal dwelling unit. ADUs may be attached or detached from the principal dwelling unit.
- 4. Addition.** A physical enlargement of an existing structure.
- 5. Adjacent.** Having a common border (a shared or adjoining border or property line).
- 6. Agricultural Building or Structure.** Any building or structure, existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.
- 7. Alley.** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of a property with principal frontage on a Street.
- 8. Awning.** A roof like cover, often of fabric, plastic, metal, or glass designed and intended for protection from weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk or the like. Any part of an awning which projects over a door shall be counted as an awning.
- 9. Basement.** Any area of a structure, including crawl spaces, having its floor or base sub grade (below ground level) on at least three sides, regardless of the depth of excavation below ground level.
- 10. Bluff.** A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:
 - a. Part or all of the feature is located in a shoreland area.
 - b. The slope rises at least twenty-five (25) feet above the ordinary high-water level of the water body.
 - c. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high-water level averages thirty percent (30%) or greater.
 - d. The slope must drain toward the water body.
- 11. Buildable Land, Contiguous.** Land area occurring within the property lines of a parcel or lot excluding wetlands, water bodies, 100-year flood fringe, transmission utility easements, or rights-of-way.
- 12. 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.
- 13. Building Frontage, Common Entry.** A building with a primary entrance on the public right-of-way that provides access to one, or multiple, non-residential tenants.
- 14. Building Frontage, Shopfront.** A building with one primary entrance per tenant that faces the public right-of-way. Examples include small retail buildings with a merchandise window, transom windows, etc.
- 15. Building Frontage, Stoop.** A building with individual entrances for each tenant of the main floor, which may include residential and non-residential uses. See definition of stoop.
- 16. Building Height.** The vertical distance to be measured from the average grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on pitched or hip roof.

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17. **Building Line.** A line measured across the width of the lot at the point where the Principal Structure is placed in accordance with required front yard setback.
18. **Caliper Inch.** The diameter of replacement trees measured at a height of one (1) foot above the ground level.
19. **Canopy.** A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.
20. **Carport.** An automobile shelter having two (2) or more sides open.
21. **Cellar.** A covered excavation, attached or unattached to the Principal Structure, often used for storage or protection from dangerous windstorms.
22. **Cluster Development.** The development pattern and technique whereby buildings or lots are arranged in closely related groups to make the most efficient use of the natural amenities of the land.
23. **Common Open Space.** Any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.
24. **Construction Area.** Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction or any other construction activity.
25. **Condominium.** A multiple family dwelling or development containing individually owned dwelling units that includes jointly owned and shared areas and facilities, which dwelling, or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes sections 515A.1-101 et seq.
 - a. *Condominium Association.* The community association that administers and maintains the common property and common elements of a condominium.
26. **Cooperative.** A multi-unit development operated for and owned by its occupants. Individual occupants own shares of the total investment property.
27. **Critical Root Zone (CRZ).** An imaginary circle surrounding the tree trunk with a radius distance of one (1) foot per one (1) inch of tree diameter, such as a twenty (20) inch diameter tree has a CRZ with a radius of twenty (20) feet.
28. **Deck.** Horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached, or functionally related to a Principal Structure or use of the site and at any point extending above grade.
29. **Diameter, Tree.** The length of a straight line measured through the trunk of a tree at fifty-four (54) inches above the ground.
30. **Diameter Inch, Tree.** The diameter, in inches, of a tree measured at diameter breast heights (four one-half [4½] feet from the uphill side of the existing ground level).
31. **Drainage.** The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.
32. **Drainageway.** Any natural or artificial watercourse, trench, ditch, swale, or similar depression into which surface water flows.
33. **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.
34. **Driveway.** A private roadway providing access for vehicles to a parking space, garage, dwelling or other buildings and structures.

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- 35. Dwelling, Duplex.** A structure containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
- 36. Dwelling, Manufactured Single-Family.** A manufactured single-family dwelling is a structure transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contain therein. No manufactured dwelling shall be moved into the City of Brainerd that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes Chapter 327.31 Subdivision 3.
- 37. Dwelling, Multi-family (5 Units+ also referred to as Apartments or Townhomes).** A building designed with five (5) or more dwelling units exclusively for occupancy by five (5) or more families living independently of each other. Such buildings may have common hallways and main entrances or have private entrances. Multi-family buildings may include, but not be limited to, efficiency units, one-bedroom, two-bedroom, and three-bedroom units.
- 38. Dwelling, Short Term Rental Unit** – A dwelling unit, as defined by this Ordinance, offered for trade or sale, whether for money or exchange of goods or services, for not more than 28 consecutive nights.
- 39. Dwelling, Single-Family Attached (2 to 4 Units).** A building designed for two (2) to four (4) dwelling units. Such units may have common or shared entry. Such buildings are commonly referred to as Duplex, Triplex, or Fourplex. See also Duplex.
- 40. Dwelling, Single-Family Detached.** A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.
- 41. Dwelling Unit.** A building or portion thereof, designated exclusively for residential occupancy. One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. Does not include hotel, motel, or boarding room.
- 42. Easement.** A grant by an owner of land for specific use by a person or persons other than the owner. An easement may be granted for the purpose of constructing and maintaining walkways, roadways, utilities, and other uses.
- 43. Erect.** Activity of constructing, building, raising, assembling, placing, affixing, attaching creating, painting, drawing or any other way of bringing into being or establishing.
- 44. Extraction Area.** Any non-agricultural artificial excavation of earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, sod, soil, sand, gravel, stone, or other natural matter, or made by turning, or breaking or undermining the surface of the earth for the purpose of removing minerals or borrow of fill. This definition shall not include excavation made for the building of basements.
- 45. Façade, Building.** The face of a building.
- 46. Fence.** Any partition, structure, wall, or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.
- 47. Filling.** The act of depositing any rock, soil, gravel, sand, or other material on a site.
- 48. Floor Area.** The sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the centerline of party walls separating two (2) buildings. In particular, "floor area" shall include:
- a. Basement space if at least one-half (1/2) of the basement story is above established curb level, or where the curb level has not been established, above the average level of the finished grade.

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- b. Elevator shafts and stairwells at each floor.
 - c. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half (7½) feet, except equipment open or enclosed, located on the roof, i.e., bulkheads, water tanks and cooling towers.
 - d. Attic floor space where the structural headroom exceeds seven and one-half (7½) feet.
 - e. Interior balconies and mezzanines.
 - f. Enclosed porches, but not terraces, breezeways, and screened porches.
 - g. Accessory uses, other than floor space devoted exclusively to accessory off-street parking or loading.
- 49. Floor Area Ratio.** The numerical value obtained through dividing the gross floor area of a building by the net area of the lot or parcel of land on which such building is located.
- 50. Floor Plan, General.** A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.
- 51. Garage, Private.** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families residing upon the premises.
- 52. Gazebo.** A freestanding accessory structure or pavilion from which views of surrounding scenery are commonly offered. Such structures are characterized by partly open construction, design symmetry, and the use of ornamental architectural features.
- 53. Greenhouses.** A building or structure often on a metal or wooden frame constructed chiefly of glass, glasslike or translucent material, which is devoted to the protection or growing of flowers, shrubbery, vegetables, trees, or other horticultural and floricultural products.
- 54. Green Space.** Open, undeveloped land with natural vegetation.
- 55. Frontage.** That boundary of a lot or parcel that is adjacent to a private street or dedicated public right-of-way or Street.
- 56. Grade (Adjacent Ground Elevation).** Is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
- 57. Grading Plan.** Existing topography and proposed finished grades with a contour interval of no greater than two (2) feet clearly indicating the relationship of proposed changes to existing topography and remaining features.
- 58. Lot.** A parcel of land designated by metes and bounds, auditors' plat, subdivision plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. Individual lots, under the same Owner, with the same or similar uses which function as one use shall, along with any associated accessory uses, be considered one (1) lot for zoning purposes.
- 59. Lot Area.** The area of a lot in a horizontal plane bounded by the lot lines.
- 60. Lot, Corner.** A lot situated at the intersection of, and adjacent to two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.
- 61. Lot Depth.** The mean horizontal distance between the front lot line and the rear lot line of a lot.
- 62. Lot, Interior.** A lot, other than corner lot, including through lots.
- 63. Lot Line, Front.** That boundary of a lot which is adjacent to an existing or dedicated public street, or existing private street. In the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the City.

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- 64. Lot Line, Rear.** That boundary of a lot which is opposite of the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
- 65. Lot of Record.** Any lot which is one (1) unit of a recorded plat designated by auditors' plat, subdivision plat, or other accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance. Also referred to as a "parcel."
- 66. Lot Line, Side.** Any boundary of a lot which is not at the lot line or a rear lot line.
- 67. Lot Through.** A lot which has a pair of opposite lot lines that are adjacent to two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lines for applying this Ordinance.
- 68. Lot Width.** The maximum horizontal distance between the side lot lines of a lot measured at the front setback line.
- 69. Ordinary High-Water Level (OHWL).** The boundary of public waters and wetlands as determined by the Minnesota Dept. of Natural Resources: an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. (See Shoreland Ordinance and Floodplain Ordinance)
- 70. Parcel.** A contiguous tract or area of land established by plat, subdivision, or as otherwise permitted by law (metes and bounds), that has one legal description and parcel identification number recorded with the Crow Wing County Recorder's Office. Also referred to as a "lot" or "lot of record." Individual parcels, under the same owner, with the same or similar uses which function as one (1) use shall, along with any associated accessory uses, be considered one (1) parcel for zoning purposes.
- 71. Property Line.** The legal boundaries of a parcel of property.
- 72. Regulatory Flood Protection Elevation.** The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 73. Road.** See "Street".
- 74. Setback.** The minimum horizontal distance between a structure or sanitary facility and a road, highway, waterbody, or property line.
- 75. Site.** Lot or combination of contiguous lots or parcels.
- 76. Site Plan.** The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including: topography, vegetation, drainage, floodplains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting, and screening device; any other information that reasonably may be required in order that an informed decision can be made by the approving authority.
- 77. Sketch Plan.** A to-scale plan of a parcel, lot, or site that shows:
- a. Existing and proposed improvements including, but not limited to, buildings, parking lots, drive aisles, and accessory buildings
 - b. Yard setbacks
 - c. Wetlands or waterbodies
 - d. Any other applicable physical characteristics required based on this Ordinance.
- 78. Slope.** The degree of deviation of a surface from the horizontal, usually, expressed in percent or degrees.

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- 79. Slope, Steep.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports. Where specific information is not available, steep slopes are lands having average slopes over eighteen (18) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
- 80. Stoop.** A small porch, platform, staircase at a house door with or without steps and with or without a roof.
- 81. Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused above-floor space shall be considered as a story.
- 82. Story, First.** The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty (50) percent of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point.
- 83. Street, Collector.** A street which serves or is designed to serve as a traffic-way for a neighborhood or as a feeder to a major street.
- 84. Street, Cul-de-Sac.** A local street, one end of which is closed and consists of a circular turn around or terminus.
- 85. Street, Local.** A street intended to serve primarily as an access to adjacent properties.
- 86. Street, Minor Arterial.** Streets which serve as transitions between principal arterials and local collector streets.
- 87. Street, Principal Arterial.** A street which is the major interconnection within a community transportation system providing major access routes within the community and its environs.
- 88. Street, Public.** A public right-of-way which affords primary means of access to adjacent property. Such definition includes avenues, highways, roads, or other rights-of-way-as otherwise designated.
- 89. Street, Private.** A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public and is owned by one or more private parties.
- 90. Structure.** Anything which is built, constructed, or erected, an edifice or building of any kind, or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.
- 91. Structure Alteration.** Any change in either the supporting members of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.
- 92. Structure, Principal (same meaning as Principal Building).** A building or group of buildings which are permanently affixed to the land, and which are built, used, designed, or intended for the shelter or enclosure of the principal use on the property.
- 93. Substantial Improvement.** Any extension, repair, reconstruction, or other improvement of a property, the cost of which equals or exceeds fifty (50) percent of the fair market value of a property either before the improvement is started or if the property has been damaged and is being restored, before the damage occurred.
- 94. Subdivision.** The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term lease hold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

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- a. Where all the resulting parcels, tracts, lots, or interests will be ten (10) acres or larger in size and five hundred (500) feet in width for residential uses and ten (10) acres or larger in size for commercial and industrial uses.
 - b. Creating cemetery lots.
 - c. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.
- 95. Yard.** A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted by this Ordinance. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.
- 96. Yard, Front.** A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning in which such lot is located.
- 97. Yard, Rear.** The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.
- 98. Yard, Side.** The yard extending along the side lot line between the front yard and rear yards to a depth or width required by setback requirements for the zoning district in which such lot is located.
- 99. Zero Lot Line.** The reduction of side yard setback requirements to zero, permitting the placement of a structure near or adjacent to the side yard lot line. With zero lot line no portion of the structure or accessory appurtenance shall project over the lot line.

C. Definitions of Use, Standards and Terms.

- 1. Accessory Use.** A subordinate use which is clearly incidental and secondary to the Principal Use or Structure located on the same lot.
- 2. Agricultural Use.** The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:
 - a. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
 - b. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
 - c. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
 - d. Tree farms.
 - e. Agricultural land uses do not include slaughterhouses or the processing of crops, produce, animals for public purchase or consumption as to constitute a commercial or industrial land use.
- 3. Animals, Domestic.** For purposes of this Ordinance, domestic animals shall be defined as house pets such as dogs, cats, traditional and typical animal pets, and birds (not including pigeons, chickens, geese, turkeys, or other domestic fowl) which can be contained within a Principal Structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes rabbits normally sheltered outside the home.
- 3. Animals, Farm.** Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses, and other animals traditionally and commonly accepted as farm animals in the State of Minnesota.
- 4. Antenna Related.**
 - a. *Personal Wireless Service.* A device consisting of a metal, carbon, fiber, or other electromagnetically conductive rods or elements on a single supporting pole or other structure and used for the transmission and reception of wireless communications including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services.

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- b. *Public or Commercial Radio and Television, Broadcast Transmitting.* A wire, set of wires, metal, or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming and including the support structure thereof.
 - c. *Public Utility Microwave.* A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point-to-point UHF or VHF radio waves in wireless telephone communications and including the support structure thereof.
 - d. *Radio and Television Receiving.* A wire, set of wires, metal, or carbon fiber element(s) other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the support structure thereof.
 - e. *Satellite Dish.* A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television receive only) and satellite microwave antennas and support structure thereof.
 - f. *Short-Wave Radio Transmitting and Receiving (Ham Radio).* A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave and citizen band radio communications, and including the supporting structure thereof.
 - g. *Secondary Use.* A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.
 - h. *Structure, Public.* An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which is owned or rented, and operated by a federal, state, or local government agency.
 - i. *Support Structure.* Any building or other structure other than a tower which can be used for location of antennas.
 - j. *Tower.* Any ground mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting an antenna or similar apparatus above grade.
 - k. *Tower, Temporary Mobile.* Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, which is commonly referred to as Cellular on Wheels (COW).
5. **Assembly, Product.** The taking of two or more parts or components and putting them together to make a final product or a product which will be combined with other components to create a final product.
6. **Auto or Motor Vehicle Wrecking Yard.** A lot or yard where one (1) or more unlicensed motor vehicle(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also "Junk Yard".)
7. **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.
8. **Boarding House (Rooming or Lodging House).** A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed twenty (20) persons.
9. **Boarding School** – A school at which the pupils receive board and lodging during the school term.

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10. **Brew Pub** – A restaurant and brewery that brews less than 3,500 barrels of beer per year for sales on the premises provided the beer is sold for consumption on the premises and not sold to other bars, restaurants, or wholesalers, except that an establishment licensed under Minnesota Statutes 304A.301, Subdivision 6D may sell “growlers” off-sale with appropriate City licenses.
11. **Club or Lodge.** A not-for-profit association of persons, with members paying annual dues, and with use of the premises being restricted to members and their guests.
12. **Commercial Use.** The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services, including, but not limited to:
 - a. *Automobile Repair-Major.* General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.
 - b. *Automobile Repair-Minor.* An establishment providing goods or services related to automobiles such as car washes, repair businesses limited to minor engine repair, fluid changing, tire service and muffler repair and other uses of similar character, but not including uses defined as a major automobile business or automobile sales.
 - c. *Automobile Sales.* The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers, or recreational vehicles including any major or minor automobile repair or service uses conducted as an accessory use.
 - d. *Automobile Service Station.* Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories.
 - e. *Hospitality Business.* An establishment offering transient lodging accommodations on a daily rate to the general public, leasable events, meeting or conference facilities and exhibition halls or other uses of similar character including hotels, motels, convention facilities, and hospices.
 - f. *Liquor Sales, Off-Sale.* Licensed sale of intoxicating beverages for consumption off site.
 - g. *Liquor Sales, On-Sale.* Licensed sale of intoxicating beverages for consumption at the premises where the beverage is purchased such as a bar or tavern.
 - h. *Motor Fuel Station.* A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.
 - i. *Office Business-Clinic.* An establishment located within a building or portion of a building providing out-patient health services to patrons, including general medical clinics, mental health providers, chiropractor, dentists, orthodontia, oral surgeons, opticians, and other uses of similar character.
 - j. *Office Business-General.* An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional administrative or clerical service operations including attorneys, financial advisors, insurance, travel, real estate, and other uses of similar character.
 - k. *Personal Service.* Personal services shall include the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, body art and therapeutic massage.
 - l. *Recreational Business.* Arcade, health club, gymnasium, bowling alley, billiard (pool) hall, dance hall, dance studio, skating rinks, theaters, indoor firearms ranges and sports arenas. Activities are contained within a building.
 - m. *Restaurant.* An establishment that serves food in individual servings for consumption on or off premises, including sit-down restaurants, take out, pick up, or delivery food sales, but not including drive-through facilities. Outdoor dining areas and drive-through facilities may or may not be allowed in each zoning district: they are not automatically allowed when a restaurant is an allowable use.

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- n. *Retail Business.* An establishment engaged in the display and sale of products produced off-site directly to consumers within a building or portion of a building excluding any exterior display and sales. Such uses may include grocery, clothing, and bookstores, etc. (Exception – sexually oriented uses).
 - o. *Service Business, Off-Site.* A company that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer’s location, including delivery services, catering services, plumbing and sewer services, and other uses of similar character.
 - p. *Service Business, On-Site.* An establishment that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks (not including drive-through facilities), copy centers, laundromats, dry cleaners, funeral homes and mortuaries, appliance repair, tailor shops, and travel bureaus.
13. **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.
14. **Conditional Use.** A land use or development that may not be appropriate generally within a certain district but may be allowed in that district with appropriate restrictions, conditions or limitations as imposed by the City Council.
15. **Conditional Use Permit.** A permit issued by the City Council in accordance with the procedures specified within this Ordinance as a device to enable the City Council to assign conditions to a proposed use or development after consideration of the adjacent land uses and the special characteristics which the proposed use presents.
16. **Day Care Facility.** A facility licensed by the State Department of Human Services, public or private, which for gain or otherwise regularly provides one or more persons, as defined by the State Human Services Licensing Act, with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers for children, day training and rehabilitation services for adults, day treatment programs, adult day care centers, and day services.
17. **District.** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.
18. **Drive-Through Facilities.** Physical facilities that permit customers to receive services or obtain goods while remaining in their motor vehicles. Examples include, but are not limited to, bank, drug store, and restaurant drive-through facilities.
19. **Elderly (Senior Citizen) Housing.** A public agency owned or controlled or privately owned multiple dwelling building with occupancy limited to persons over fifty-five (55) years of age or older.
20. **Essential Services.** Overhead or underground electrical, gas, steam or water distribution systems structures or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including utility towers, water towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith but not including buildings. Personal wireless service and commercial broadcasting antennas and towers shall not be considered an essential service.
21. **Exterior Storage/Outside or Outdoor Storage/Storage Yards.** An outside area where the storing of equipment or material and the storing or parking of vehicles, trailers, or semi-trucks used in the everyday operation of the principal use. Outdoor sales lots are not outdoor storage but are distinct uses regulated by this ordinance.

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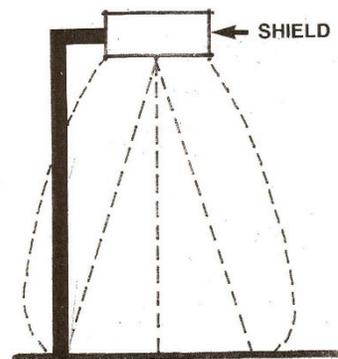
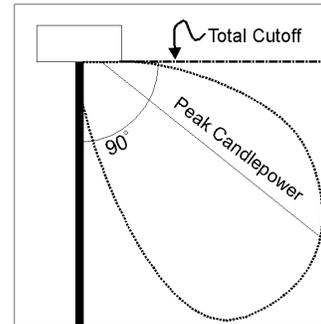
22. **Family.** Two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and kitchen facilities.
23. **Farm.** Real property used for commercial agriculture or horticulture comprising at least twenty (20) contiguous acres and which may contain other contiguous or noncontiguous acreage, all of which is owned or leased and operated by a single family, family corporation, individual or corporation.
24. **Farm, Limited (Hobby Farm).** A limited farm is a food producing use primarily intended for the use of the residents and on parcels of from one (1) to twenty (20) contiguous acres in size. Limited farming uses may include the production of crops, such as fruits, vegetables, flowers, plants, shrubs, and trees. Animals and domestic pets may be allowed subject to the provisions of this Ordinance.
25. **Flag.** Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.
26. **Flood.** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
27. **Flood Frequency.** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
28. **Home Business.** Any lawful occupation or profession conducted within a dwelling unit by the owner and/or occupant, which is subordinate to the residential use of the principal or accessory structure.
29. **Homeowners Association.** A community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.
30. **Hotel including Extended Stay Hotels.** An establishment offering lodging accommodations including provisions for meals to the general public on a daily or weekly basis, leasable events space, meeting or conference facilities and exhibition halls or other uses of similar character. May also be referred to as motel or extended stay motel. A hotel becomes an extended stay hotel when a guest stays longer than 30 days.
31. **Impervious Surface.** An artificial or natural surface through which water, air or roots cannot penetrate.
32. **Individual Sewage Treatment System (ISTS) or Individual Sewage Disposal System.** A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks followed by soil treatment and disposal or using advanced treatment devices that discharge below final grade. Individual sewage treatment system includes holding tanks and privies (per Minnesota Rules 7080).
33. **Interim Use.** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow said use.
34. **Junk Yard.** An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto-wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.
35. **Kennel, Commercial.** Any structure or premises on which more than three (3) dogs or cats, over six (6) months of age are kept, owned, boarded, groomed, sheltered, protected, bred, or offered for sale or any other merchandising.
36. **Kennel, Private.** Any structure or premises in which three (3) or less dogs, over six (6) months of age, are kept for private enjoyment and not for monetary gain. Every kennel shall be enclosed or fenced in such manner as to prevent the running at large or escape of animals confined therein.
37. **Land Reclamation.** The process of the re-establishment of acceptable topography (i.e., slopes), vegetative cover, soil stability, and the establishment of safe conditions appropriate to the subsequent use of the land.

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

39. **Lighting Related:**

- a. *Cutoff.* The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.
- b. *Cutoff Angle.* The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted (see Figure 1 at right).
- c. *Cutoff Type Luminaire.* A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.
- d. *Flashing Light.* A light source which is not constant in intensity or color at all times while in use.
- e. *Foot candle.* A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.
- f. *Light Source.* A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- g. *Luminaire.* A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- h. *Outdoor Lighting.* Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground, or located on freestanding poles.
- i. *Outdoor Light Fixture.* Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps, and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and flood lights.
- j. *Security Lighting.* Outdoor lighting fixtures installed exclusively for the protection of property and public safety.
- k. *Shielding.* A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture (see Figure at right).
- l. *Spillage.* Any reflection, glare or other artificial light that emits onto any adjoining property or right-of-way and is above a defined maximum illumination.



40. **Lodging Room.** A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.

41. **Manufacturing, Light.** The manufacturing or assembly of a product whether in its final version or not. All materials and products must be stored within the structure. Examples of the types of use are electronic assembly, dental laboratories, etc.

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42. **Micro-Brewery.** A facility for brewing beer that produces less than 3,500 barrels per year. It may include a tap room and retail space to sell beer to patrons on the site.
43. **Microdistillery.** A facility for distilling spirits not to exceed the Minnesota State Statute allowed amount in a calendar year. It may include a cocktail room and retail space to sell spirits to patrons on the site.
44. **Mini Self-Storage.** An enclosed storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for the storage of household or commercial goods or personal belongings.
45. **Mining.** The extraction of sand, gravel, rock, soil, or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.
46. **Model Home.** A home which is similar to others in a development, and which is open to public inspection for the purpose of selling said other homes.
47. **Non-Conforming Building or Structure, Legal.** A building or structure which legally exists at the time of the adoption of this Ordinance which does not comply with the regulations of this Ordinance or any amendments hereto governing the Base Zoning District or Overlay District in which such building or structure is located.
48. **Non-Conforming Use, Legal.** A use or activity which was lawful prior to the adoption, revision, or amendment of this Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the Base Zoning District or Overlay District.
49. **Nuisance.** Anything defined as a nuisance by Section 2010 of the City Code.
50. **Nursing Home.** A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statute, Section 144.50.
51. **Off-street Loading Space.** A space accessible from the street, alley, or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.
52. **Obstruction.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
53. **Official Zoning Map.** The Zoning Map established by the City Council, in accordance with the Municipal Planning Act, (MSA 462), showing Base Zoning Districts, Overlay Districts, streets, highways and parks.
54. **Open Sales Lot (Exterior Storage).** Any land used or occupied for the purpose of buying and selling goods, materials, or merchandise and for the storing of same under the open sky prior to sale.
55. **Open Space (Usable).** Open areas, including parks, nature areas, playgrounds, and trails. This does not include holding ponds.
56. **Open Space Recreational Uses.** Recreational use particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsites, campgrounds, waysides, parks, and recreation areas.
57. **Ordinance.** Brainerd Zoning Ordinance.
58. **Parking Lot.** An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.
59. **Parking Space.** A surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one (1) automobile.

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60. **Party Wall.** A common shared wall between two (2) separate structures, buildings, or dwelling units.
61. **Permitted Use.** Any use allowed in a Base Zoning District and subject to the restrictions applicable to that Base Zoning District.
62. **Personal, Professional, and Recreational Vehicle Repair, Major.** General repair, rebuilding or reconditioning engines, vehicles, trailers or similar; collision service, including body, frame or fender straightening or repair; overall painting or paint job; transmission repair; vehicle steam cleaning; and similar activity.
63. **Personal, Professional, and Recreational Vehicle Repair, Minor.** The replacement of any part or repair of any part which does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work and upholstery service; and similar activity. Above stated is applied to passenger vehicles and trucks not in excess of 7,000 pounds gross weight.
64. **Place of Worship.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained, and controlled by a religious body organized to sustain public worship.
65. **Planned Unit Development (PUD).** An area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned residential developments and/or one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of non-residential uses to residential uses as shall be specified in the Overlay District.
66. **Practical Difficulty.** The same as that term is defined in Minnesota Statutes, Chapter 462.
67. **Principal Use.** The primary or predominant use of any land and/or buildings and the main purpose for which the land and/or buildings exist.
68. **Public Land.** Land owned or operated by municipal, school district, county, state, or other governmental units.
69. **Reclamation-Land.** The improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.
70. **Recreation Equipment.** Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses, swimming pools, playhouses exceeding 25 square feet of floor area, or sheds utilized for storage of equipment.
71. **Recreation, Public.** Includes all uses that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.
72. **Recreational Vehicle.** A vehicle designed and used for recreational purposes and enjoyment including, but not limited to, snowmobiles, motorized all-terrain vehicles, boats, boat trailers, travel trailers, truck campers, camping trailers, and self-propelled motor homes. This definition does not include race cars or stock cars.
73. **Regional Flood.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
74. **Residential Facility, State Licensed.** Any facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include but are not limited to: state institutions under the control of the Commissioner of Human Services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults, or schools for handicapped children.

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75. Sexually Oriented Activities Related Terms.

- a. "Adult Establishment" means:
- b. Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or
- c. Any business that engages in any adult use as defined in Subdivision 2 of this Section.
- d. Adult Use. Any of the activities and businesses described below:
 - i. "Adult Body Painting Studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
 - ii. "Adult Bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - iii. "Adult Cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
 - iv. "Adult Companionship Establishment" means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - v. "Adult Conversation/Rap Parlor" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - vi. "Adult Health/Sport Club" means a health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - vii. "Adult Hotel or Motel" means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - viii. "Adult Massage Parlor/Health Club" means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - ix. "Adult Mini-Motion Picture Theater" means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 - x. "Adult Modeling Studio" means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual

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Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

- xii. "Adult Motion Picture Theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
- xiii. "Adult Novelty Business" means an establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.
- xiv. "Adult Sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- xv. "Adult Steam Room/Bathhouse Facility" means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- xvi. "Nude" or "Specified Anatomical Areas" means:
 - a. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola.
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- xvii. "Specified Sexual Activities" means:
 - a. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zoerastia;
 - b. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
 - c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
 - d. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
 - e. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;
 - f. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

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89. **Sign - Commercial Speech Signage.** A sign advertising a business, profession, commodity, commercial service, or entertainment.
90. **Sign - Electric Sign.** A sign or portion thereof that displays electronic, static images, static graphics, or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic signs include projected images or messages with these characteristics onto buildings or other objects.
91. **Sign - Flashing Sign.** A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation or mode of lighting which resembles zooming, twinkling or sparkling.
92. **Sign - Freestanding Sign.** Any permanent sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.
93. **Sign - Height of Sign.** Shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.
94. **Sign - Illuminated Sign.** Any sign which contains an element designed to emanate artificial light internally or externally.
95. **Sign - Legally Established Non-Conforming Sign.** Any sign and its support structure lawfully erected prior to the effective date of this Ordinance which fails to conform to the requirement of this Ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this Ordinance and which does not comply with this Ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.
96. **Sign - Marquee.** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of that building, generally designed, and constructed to provide protection from the weather.
97. **Sign - Marquee Sign.** Any building sign painted, mounted, constructed, or attached in any manner on a marquee.
98. **Sign - Monument Sign.** Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which does not exceed eight (8) feet in height.
99. **Sign - Multiple Tenant Sign.** Any site which has more than one (1) tenant and each tenant has a separate ground level exterior public entrance.
100. **Sign - Multi-Vision Sign.** Any sign composed in whole or part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows, on a single sign structure, the display at any given time one of two or more images.
101. **Sign - Non-Commercial Speech Sign.** A sign displaying a dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, civic events, and informational topics.
102. **Sign - Official Sign.** Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, direction to public facilities when erected by or on behalf of a public official or employee in the performance of official duty.
103. **Sign - Off-premise Sign.** A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where sign is located. For purpose of this sign Code, easements and other appurtenances shall be considered to be outside such lot

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

104. **Sign - On-Premise Signs.** Identify or advertise an establishment, person, activity, goods, products, or services located on the premises where the sign is installed.
105. **Sign - Pole Sign.** See Pylon Sign.
106. **Sign - Projecting Sign.** Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.
107. **Sign - Pylon Sign.** Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.
108. **Sign - Roof Sign.** Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure.
109. **Sign - Roof Sign, Integral.** Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
110. **Sign - Rotating Sign.** A sign or portion of a sign which in any physical part or in total turns about on an axis, rotates, revolves or is otherwise in motion, including without limitation a multi-vision sign.
111. **Sign - Shimmering Sign.** A sign which reflects an oscillating or distorted visual image.
112. **Sign.** Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
113. **Sign - Sign Area.** The area within the marginal lines created by the sign face which bears the advertisement or, in the case of messages, figures or symbols attached directly to the part of the building, which is included in the smallest geometric figure which can be made to circumscribe the message, figure or symbol displayed thereon.
114. **Sign - Sign Face.** The surface of the sign upon, against, or through which the message of the sign is exhibited.
115. **Sign - Sign Structure.** Any structure including the supports, uprights, bracing, and framework which supports or is capable of supporting any sign.
116. **Sign - Suspended Sign.** Any building sign that is suspended from the underside of a horizontal plan surface and is connected to this surface.
117. **Sign - Temporary.** A sign erected or placed on private property for a limited period of time including but not limited to signs affixed or attached to vehicles including trailers.
118. **Sign - Total Site Signage.** The maximum permitted combined area of all signs allowed on a specific property.
119. **Sign - Video Display Sign.** A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that gives the illusion of motion, including, but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

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120. **Sign - Wall Sign.** Any building sign attached parallel to but within two (2) feet of a wall painted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall or building, and which displays only one (1) sign surface.
121. **Sign - Window Sign.** Any building sign, pictures, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event sale, or service that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.
122. **Significant Woodland.** A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying five hundred (500) or more square feet of property, which are comprised of deciduous trees between four (4) inches and twelve (12) inches in diameter or coniferous trees between four (4) feet and twelve (12) feet in height.
123. **Solar Related.**
- a. *Passive Solar Energy System.* A solar energy system that uses natural and architectural components to collect and store solar energy without using any external mechanical power.
 - b. *Solar Access Space.* That airspace above all lots within the Zoning District necessary to prevent any improvement, vegetation or tree located on said lots from casting a shadow upon any Solar Device located within said zone greater than the shadow cast by a hypothetical vertical wall ten (10) feet high located along the property lines of said lots between the hours of 9:30 a.m. and 2:30 p.m., Central Standard Time on December 21. This Ordinance shall not apply to any improvement or tree which casts a shadow upon a Solar Device at the time of the installation of said device, or to vegetation existing at the time of installation of said Solar Device.
 - c. *Solar Collector.* A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.
 - d. *Solar Energy.* Radiant energy (direct, diffuse, and reflected) received from the sun.
 - e. *Solar Energy System.* A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). To qualify as a solar energy system, the system must be permanently located for not less than ninety (90) days in any calendar year beginning with the first calendar year after completion of construction.
 - f. *Solar Space.* The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.
 - g. *Solar Sky Space Easement.* A right, expressed as an easement, covenant, condition, or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar sky space of an actual, proposed, or designated solar energy collector at a described location by forbidding or limiting activities or land uses that interfere with access to solar energy. The solar sky space must be described as the three-dimensional space in which obstruction is prohibited or limited, or as the times of day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two (2) methods.
 - h. *Solar Structure.* A structure designed to utilize solar energy as an alternate for, or supplement to a conventional energy system.
124. **Specialty Food Shops.** An establishment specializing in selling one type or line of edible or drinkable products catering to the takeout client and not offering full-service meals. Examples include coffee, candy, ice cream, etc. Product manufactured on site such as candy or ice cream must be over the counter on site sales.
125. **Sport Court.** A facility that typically includes a paved playing surface for one or more sport activities such as, but not limited to, tennis, basketball, or volleyball.

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126. **Stable, Commercial.** The business of boarding horses for fee for persons not residing on the premises and may include instruction, exhibition, and sale of horses. This shall include the raising and breeding of horses.
127. **Storage, Outdoor.** Keeping of any personal property, commercial, or industrial property that is not enclosed in a .
128. **Stringer.** A line of string, rope, cording or an equivalent to which is attached a number of pennants.
129. **Surface.** A road, driveway, approach, parking lot which consists of gravel, crushed rock, lime rock, bituminous surface, concrete surface, or other similar material.
130. **Swimming Pool.** Any indoor or outdoor structure intended for swimming, wading or recreational bathing. The structure may be constructed, installed, or located in-ground, partially in-ground or above ground and may include permanent or storable swimming pools, hot tubs, and spas.
131. **Taproom/Tasting Room.** A facility on the premises of and accessory to a licensed brewery intended for the on-sale consumption and limited off-sale beer produced by the brewer as authorized by Minnesota Statutes Section 340A.301 Subdivision 6B.
132. **Temporary Structure.** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
133. **Toxic and Hazardous Wastes.** Waste materials including, but not limited to: poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.
134. **Tree.** Any of the following type of trees, as each is defined herein:
- a. *Coniferous Tree.* A woody plant which, at maturity, is at least 12 feet or more in height, having foliage on the outermost portion of the branches year-round.
 - b. *Deciduous Tree.* A woody plant which, at maturity, is at least 15 feet or more in height, having a defined crown, and which sheds leaves annually.
 - c. *Significant Tree.* A healthy tree measuring a minimum of six (6) inches in diameter for deciduous trees, or a minimum of 12 feet in height for coniferous trees.
 - d. *Significant Tree Stand.* A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying 500 or more square feet of property, which are comprised of deciduous trees six (6) inches or larger in diameter or coniferous trees 12 feet or higher in height.
 - e. *Specimen Tree.* A healthy hardwood tree measuring equal to or greater than 30 inches in diameter and/or a coniferous tree measuring 50 feet or greater in height.
135. **Tree Certification.** A certified inventory of trees on the site after work is complete listing all trees and their final disposition, which is signed by a licensed forester or landscape architect.
136. **Tree Preservation Plan.** A plan and inventory certified by a forester or landscape architect indicating all of the significant trees and their locations in the proposed development or on the lot. The tree preservation plan shall include the size, species, tag numbers, and location of all significant trees proposed to be saved and removed on the area of development, and the measures proposed to protect the significant trees to be saved.
137. **Transient Merchant.** Any person, firm, or corporation, whether a resident of the City of Brainerd or not, who engages temporarily in the business of selling and delivering goods, wares, or merchandise within the City of Brainerd, and who, in furtherance of such purpose, hires, leases, uses, or occupies any building, structure, vacant lot, motor vehicle or trailer.
138. **Transient Produce Merchant.** Any person who engages in or transacts in any temporary and transient business within the City selling products of the farm or garden occupied and cultivated by that person; and,

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who for the purposes of carrying on such business, hires, leases, occupies, or uses, a building, structure, vacant lot, motor vehicle trailer, or railroad car, on a site other than the property on which the produce is grown and cultivated in a zoning district where it is allowed by this Ordinance.

139. **Trucking Terminal.** Land or buildings used primarily as a relay station for the transfer of freight from one vehicle to another or one party to another rather than permanent or long-term storage. The terminal facility might include storage areas for trucks and buildings for truck maintenance and repair.
140. **Use.** The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized, or maintained.
141. **Use, Permitted.** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular district.
142. **Use, Principal.** The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.
143. **Variance.** A modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation. A variance shall normally be limited to height, density, and yard requirements.
144. **Warehousing.** The storage of materials or equipment within an enclosed building.
145. **Waterbody or Watercourse.** Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.
146. **Wetland.** Land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.
147. **Wind Energy Conversion Systems (WECS).** Any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of useable energy.
148. **Wind Energy Conversion System, Small.** A wind energy conversion system consists of a wind turbine and associated control or conversion electronics and is used primarily to reduce on-site consumption of utility power. Small wind energy conversion systems are an administrative accessory use in residential districts and shall be attached to an existing principal building. A small wind energy conversion system shall not exceed a rated capacity of 100 kWh.
149. **Zoning Amendment.** A change authorized by the City either in the allowed use within a Base Zoning District, re-zoning to an Overlay Zoning District or alteration of the boundaries of a Base or Overlay Zoning District.
150. **Zoning District.** An area or areas within the limits of the City for which the regulations and requirements governing use are uniform as defined by this Ordinance.