

Zoning Code

Chapter 5

Business Districts

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Sec. 5-010. Permitted Uses in a B-1 District.

(1) Professional and service occupations such as accountant, architect, artist, broker, dentist, engineer, attorney, physician, realtor, chiropractor, osteopath, optometrist, secretarial agency, appraiser, advertising agency, finance agency, insurance agency, investment agency, travel agency, bonding agency, mortgage agency, shopping service, and office-business machine agency.

(2) Funeral homes.

(3) Radio, and television studios.

(4) The City Council shall consider other uses not listed in this Section. Such uses may be permitted at the discretion of the City Council pursuant to and in accordance with Sections 8-700 through 8-720 of the Zoning Code. (Code of 1988; Ord. No. 587, 11-10-92; Ord. No. 588, 11-10-92; Ord. No. 602, 9-28-93; Code of 2001)

Sec. 5-020. Permitted Accessory Uses in a B-1 District.

Signs as regulated in Chapter 9 of the Zoning Code. (Code of 2001)

Sec. 5-030. Special Permitted Uses in a B-1 District.

(1) Clubs, fraternal and labor organizations provided that no such buildings are erected nearer than 100 feet to a Residential District.

(2) Employee service facilities related to uses permitted in this District, including restaurants, provided such facilities do not occupy more than ten percent of the building floor area and are not be directly open to or visible from the street.

(3) Vocational or trade schools, private or public.

(4) Parking lots when such lots are the principal use of the premises.

(5) Racquet clubs, subject to the following:

A. The racquet club building shall be designed as to have an appearance compatible with a residential area.

B. Only such buildings as are necessary for the racquet courts and associated activities shall be permitted on the premises. No buildings or additions to buildings for additional accessory uses shall be permitted.

C. A surfaced parking lot shall be located in conformance with the standards of this Chapter and Chapter 6 of the Zoning Code except that it shall be of sufficient size to accommodate the required number of parking spaces per court. The number of required parking spaces shall be seven spaces per court.

D. Sales of goods and services shall be permitted only upon the following conditions:

1. All sales shall be conducted within the clubhouse building.

2. Sales shall be limited to the following:

a. Services necessary or incidental to the teaching and playing of the game.

b. Equipment, clothing and supplies necessary or incidental to the playing of the game.

c. Food, beverages, and confections for the convenience of those playing the game.

E. Plantings, berming and/or other types of landscaping treatment shall be provided to buffer surrounding residential areas and to ensure the compatibility of the racquet club.

F. The special use permit for the racquet club may include as a condition the conduct of indoor recreational, educational, and artistic activities that are special events of a temporary nature and may be permitted with the authorization of the City Council. This authorization is separate from and in addition to the permit for a racquet club and may be granted on the following conditions:

1. Authorization by the City Council shall specify each separate activity permitted.

2. Authorization by the City Council may limit the dates, times, and maximum number of participants.

3. Such activity will not create objectionable sound or sight to neighboring lands.

(6) Government buildings and grounds.

(7) Churches.

(8) Public or private schools. (Code of 1988; Ord. No. 588, 11-10-92; Code of 2001)

Sec. 5-040. Lot Standards in a B-1 District.

- (1) No structure or building shall exceed two stories or 36 feet in height, whichever is less in a B-1 District.
- (2) Any structure or building shall not be located less than fifty feet from any boundary line of an R-1 District.
- (3) Each building shall have a front yard setback shall of not less than thirty feet.
- (4) Side yard setback shall not be less than five feet.
- (5) A side street yard on a corner lot shall not be less than thirty feet. (Code of 2001)

Article 2. B-2 District

Sec. 5-110. Neighborhood Business District.

For the purpose of this Article, a neighborhood business district is defined as a business district required for the daily retail business needs of the residents of the locality only. (Code of 2001)

Sec. 5-120. Permitted Uses in a B-2 District.

- (1) Any uses permitted in a B-1 district except as otherwise provided in the Zoning Code.
- (2) Retail business for local or neighborhood needs subject to the following limited extent:
 - A. The sale and manufacture of baked goods and the sale of confectionery, dairy products, delicatessen, fruits, vegetables, groceries and meats in permanent buildings only.
 - B. The sale of dry goods and variety merchandise.
 - C. The sale of books, magazines, newspapers, cigars, drugs, flowers, gifts, music, photographic goods, sporting goods, and stationery.
 - D. Eating places, lunchrooms, restaurants, and cafeterias when housed and used in conjunction with other businesses permitted in the District.
 - E. Places for the sale and consumption of soft drinks, juices, and ice cream.
 - F. Service establishments, barber or beauty shops, custom tailors, laundry agencies, self-service laundries, hand laundries, coin laundries, shoe repair, ice stations, and milk and egg stations. Also dry cleaning, pressing, and tailoring shops in which:
 1. Not more than five persons are engaged in such work or business at any one time.
 2. Only nonexplosives and nonflammable solvents are used.
 3. No work is done on the premises for retail outlets elsewhere.
 - G. It shall be the policy of the City Council to consider other uses not listed in this Section. At the discretion of the City Council, such uses may be permitted pursuant to and in accordance with Sections 8-700 through 8-720 of the Zoning Code. (Code of 1988; Ord. No. 587, 11-10-92; Code of 2001)

Sec. 5-130. Permitted Accessory Uses in a B-2 District.

- (1) Off-street parking and off-street loading as regulated by the Zoning Code.
- (2) Buildings and structures for a use that is accessory to the principal use.
- (3) Signs as regulated in Chapter 9 of the Zoning Code.
- (4) Up to four electronic amusement devices or games not to exceed in area thirty percent of the net retail sales area.
- (5) Licensed permanent cosmetic make-up businesses limited to application of coloring agents to create a permanent color to the skin of or around the eyes, lips, eyebrows, eyelids facial area and camouflaging of skin and scar tissue by applying skin coloring are permitted accessory uses to barber shops and hair or beauty salons. (Code of 1988; Ord. No. 499, 9-15-82; Code of 2001; Ord. No. 682, 2-27-01)

Sec. 5-140. Special Permitted Uses in a B-2 District.

- (1) Colleges, public and private.
- (2) Mortuaries and funeral homes.
- (3) Newspaper and magazine stands.
- (4) Pet shops.
- (5) Public utility facilities.
- (6) Parking lots when such lots are the principal use of the premises.
- (7) Churches.
- (8) Public or private schools. (Code of 1988; Ord. No. 588, 11-10-92; Ord. No. 646, 10-27-98; Code of 2001)

Sec. 5-150. Lot Standards in a B-2 District.

- (1) No structure or building shall exceed two stories or 36 feet in height, whichever is less in a B-2 District.
- (2) Each building shall have a front yard setback of not less than thirty feet.
- (3) No side yards shall be required except as follows:
 - A. There shall be a side yard of not less than thirty feet on a corner lot adjacent to a key lot in a residential district.
 - B. There shall be a side yard of not less than thirty feet along that side of every lot in a B-2 District bordering upon property in an R-1 or R-2 District; and, there shall be a side yard of not less than twenty feet where a B-2 District borders upon property in an R-3 District.
 - C. A side street yard on a corner lot shall not be less than thirty feet.
- (4) There shall be a minimum rear yard of thirty feet for every lot in a B-2 District.
- (5) The floor area ratio in a B-2 District shall not exceed .75. (Code of 2001)

Article 3. B-3 District

Sec. 5-210. General Business District.

A General Business District, as distinguished from a Neighborhood Business District, contains uses that include the sale of commodities or the performance of services for a larger segment of population than the average neighborhood. (Code of 2001)

Sec. 5-220. Permitted Uses in a B-3 District.

- (1) All uses permitted in B-1 and B-2 Business Districts.
- (2) The sale of food and beverages of all kinds including the sale for consumption on the premises.
- (3) The sale of general merchandise including sale in department stores.
- (4) The sale of apparel of all kinds.
- (5) The sale of furniture and household goods including furniture and accessory furniture storage.
- (6) The sale of other goods and merchandise.
- (7) Eating places of all types.
- (8) Service establishments permitted in a neighborhood business district without limitation on the number of persons engaged in such work or business and cat and dog hospitals or pet shops provided that noise and odors are effectively confined to the premises.
- (9) Business offices and services in addition to the uses permitted in neighborhood business districts; and office buildings and banks.
- (10) Parking lots when such lots are accessory to a principal use on an adjacent lot.
- (11) The City Council shall consider other uses not listed in this Section. Such uses may be permitted at the discretion of the City Council pursuant to and in accordance with Sections 8-700 through 8-720 of the Zoning Code. (Code of 1988; Ord. No. 587, 11-10-92; Ord. No. 588, 11-10-92; Ord. No. 655, 2-23-99; Code of 2001)

Sec. 5-230. Permitted Accessory Uses in a B-3 District.

- (1) All accessory uses permitted in B-1 and B-2 Districts.
- (2) Signs as regulated in Chapter 9 of the Zoning Code.
- (3) Up to four electronic amusement devices or games are permitted accessory uses except that up to ten electronic amusement devices or games shall be a permitted accessory use to a B-3 District permitted principal use if the floor area of said principal use is at least 25,000 square feet. In the case of shopping centers, only that leased space for a given principal use and no other part of the shopping center may be considered in determining whether the principal use contains at least 25,000 square feet. (Code of 1988; Ord. No. 499, 9-15-82; Code of 2001)

Sec. 5-240. Special Permitted Uses in a B-3 District.

- (1) Amusement centers, recreation centers, armories, assembly halls, bowling alleys, dance halls, pool and billiards, theaters, skating rinks or other social, sports, or recreation centers operated as businesses.
- (2) Transportation services and bus passenger stations or bus terminals.
- (3) Mortuaries and funeral homes.
- (4) Newsstands.
- (5) Motels.
- (6) Automobile sales, new or used.
- (7) Automotive services, service stations, service garages, convenience gasoline establishments but not include automotive body shops or truck and trailer repair.
- (8) Research laboratories, radio or television stations, telephone exchange or transformer stations provided all buildings and structures except fences and barriers are located not less than fifty feet from a residential district.
- (9) Clinics, hospitals, sanitariums, convalescent homes, rest homes, nursing homes, orphanages, and similar institutions provided that all main buildings are not less than fifty feet from any adjoining premises in a residential district not used for a similar purpose.
- (10) Business colleges and private trade schools.
- (11) Public or private schools.
- (12) Churches.
- (13) Parking lots when such use is accessory to a use of another lot separated only by public right-of-way.

(14) Service station canopies with building setbacks of between ten feet and thirty feet in front yards and side street yards on corner lots. (Ord. No. 499, 9-15-82; Code of 1988; Ord. No. 588, 11-10-92; Ord. No. 600, 7-13-93; Ord. No. 655, 2-23-99; Code of 2001)

(15) Outdoor dining in conjunction with a licensed food establishment. Adequate screening, fencing and/or other requirements may be imposed to ensure that such use does not have a detrimental impact on the adjoining properties or the general public. The Council may authorize outdoor dining areas to encroach upon the required front yard setback up to 15' subject to the following additional conditions:

A. The outdoor dining area shall be adjacent to the principal building and primary access shall be provided from within the principal building.

B. The design of the patio area and any fencing and landscaping shall be such that sight lines in and out of existing or proposed access points are not obstructed.

C. Temporary structures shall not be allowed within the outdoor dining area.

D. Banners, streamers or other types of permanent or temporary signs shall not be placed or displayed in outdoor dining areas.

E. The patio does not take on characteristics of a building having a roof and/or walls.

F. The City Council may impose additional conditions as deemed necessary to protect the public health, safety and welfare. (Ord. No. 734, 01-10-2006. Ord. No. 767, 10-28-2008)

Sec. 5-250. Lot Standards in a B-3 District.

(1) No structure or building shall exceed two stories or 36 feet in height, whichever is less in a B-3 District.

(2) The requirements for setbacks and yards shall be the same as the requirements in the B-2 District.

(3) The floor area ratio in the B-3 District shall not exceed 1.0. (Ord. No. 600, 7-13-93; Code of 2001)

Article 4. B-4 Downtown Business District

Sec. 5-310. Reserved. (Code of 2001)

Sec. 5-320. Purpose.

The City recognizes the downtown commercial area of New Brighton as a unique situation in that the area was developed in a manner that is now inconsistent with present zoning code requirements. Further the nature of development in the downtown commercial area and certain zoning code requirements inhibit new development, redevelopment, or expansion of existing businesses. In order to facilitate such activity in the downtown commercial area, to recognize the unique character and circumstances of such an area, and to create a harmonious pattern and attractive development benefitting the downtown commercial area in particular and the City as a whole, a B-4 Downtown Business District is created. (Code of 1988; Code of 2001)

Sec. 5-330. Designation of a B-4 Downtown Business District.

(1) By ordinance, the City Council may designate a parcel or parcels of land as a B-4 Downtown Business District after the Planning Commission has completed a review and held a public hearing. Notice of the hearing shall be given in the same manner as specified in Section 8-620 of the Zoning Code. (Code of 1988, Ord. No. 690, 7-24-01; Code of 2001)

(2) Action to designate a B-4 Downtown Business District may be initiated by the City Council or by petition of fifty percent or more of the property owners within the proposed district. (Code of 2001)

Sec. 5-340. Uses Permitted in a B-4 Downtown Business District.

(1) Commercial uses as listed in Section 5-220.

(2) All residential uses.

(3) Light industrial uses that are determined by the City Council to be in scale with and that have physical appearance, character, and environmental effects similar to commercial uses permitted in the District. Such uses must be permitted uses in the I-1 Light Industrial District and may be permitted at the discretion of the City Council pursuant to and in accordance with Sections 8-700 through 8-720 of the Zoning Code.

(4) Uses listed in Section 5-240 shall be allowed within a B-4 Downtown Business District upon issuance of a special use permit. (Code of 1988; Ord. No. 587, 11-10-92; Code of 2001)

(5) At the time of rezoning land to B-4 Downtown Business District, the City Council may, by ordinance, restrict or expand the uses listed in this section, taking into consideration the land being rezoned, the uses in the vicinity of the land, and any specific development proposals made and approved in connection with the rezoning. (Code of 1988; Code of 2001 Ord. No. 690, 7-24-01)

Sec. 5-350. General Development Plans in a B-4 Downtown Business District.

(1) The Council shall approve a general development plan within the B-4 Downtown Business District.

(2) Such plans shall contain the following information:

A. Location and configuration of proposed buildings.

B. Location and size of public and/or private parking areas, streets or ways to serve existing or proposed development.

C. Special architectural or design regulations to control development in the District.

D. Special signing regulations to control District signing.

E. Any proposed limitations on the use and development of properties in the District. (Code of 1988: Code of 2001 Ord. No. 690, 7-24-01)

(3) In approving a general development plan, the City Council may attach such conditions as it deems necessary to protect the public health, safety, and welfare, or to better carry out the stated purposes of this Chapter of the Zoning Code, and may require that such conditions be set forth in covenants regulating the use and development of properties in the District.

(Code of 1988: Code of 2001 Ord. No. 690, 7-24-01)

(4) Approval shall only be granted after review by the Planning Commission at a public hearing and action by the City Council. Approval of a general development plan shall require two-thirds vote of all the members of the City Council. (Code of 1988, Code of 2001 Ord. No. 690, 7-24-01)

(5) Notice of the hearing shall be given in the same manner as specified in Section 8-620. (Code of 2001)

Sec. 5-360. Development Regulations in a B-4 Downtown Business District.

(1) Within a B-4 District there shall be no construction or expansion of buildings or structures nor expansion of any existing land use that is not consistent with the General Development Plan without obtaining an amendment to the general development plan for such construction or expansion. The construction or expansion must be in general compliance with the comprehensive plan for the City. (Code of 1988: Code of 2001 Ord. No. 690, 7-24-01)

(2) Application for amendments required herein shall include the submission of detailed site and development plans for development of all or an appropriate portion of the site. Plans shall be submitted in accordance with the terms of Section 8-010 of the Zoning Code except that the City may exempt an applicant from providing some of the information in cases involving expansion of existing buildings or land uses when such information would not be necessary to establish the effects of the proposal on surrounding properties or to establish compliance with approved plans.

(Code of 1988: Code of 2001 Ord. No. 690, 7-24-01)

(3) The procedure for consideration of an amendment shall be the same as that for a special use permit as specified in Section 8-120 except that approval requires a two-thirds vote of the entire Council. (Code of 1988: Code of 2001 Ord. No. 690, 7-24-01)

(4) Commercial and industrial uses within a B-4 Downtown Development District shall comply with all development regulations applicable in the B-3, General Business District, except as modified by the approved general development plan for the District or by the terms of conditions imposed by the Council for a specific development. (Code of 1988: Code of 2001 Ord. No. 690, 7-24-01)

(5) Residential uses within a B-4 Downtown Development District shall comply with all development regulations applicable in the R-3B, Multiple-Family Residence District, except as modified by the approved general development plan for the District or by the terms of conditions imposed by the Council for the specific development. (Code of 2001, Ord. No.690, 7-24-01)

Article 5. B-5 Office Development District

Sec. 5-410. B-5 Office Development District B-5.

- (1) An Office Development District is intended for large office developments of a single building.
- (2) For sites where more than one building is proposed and the buildings are to be under separate ownership, development shall occur according to the planned unit development procedure. (Code of 2001)

Sec. 5-420. Permitted Uses in a B-5 District.

- (1) Offices or corporate headquarters having a minimum of 50,000 square feet of gross floor area.
- (2) The City Council shall consider other uses not listed in this Section. Such uses may be permitted at the discretion of the City Council pursuant to and in accordance with Sections 8-700 through 8-720.
- (3) Where more than one use is intended for the site, development shall occur according to the planned unit development procedure. (Code of 1988; Ord. No. 587, 11-10-92; Code of 2001)

Sec. 5-430. Permitted Accessory Uses in a B-5 District.

All accessory uses as permitted in the B-3 District. (Code of 2001)

Sec. 5-440. Reserved. (Code of 2001)

Sec. 5-450. Lot Standards in a B-5 District.

- (1) No structure shall exceed five stories in height except that mechanical equipment and enclosures of mechanical equipment shall not be included within such height limitation.
- (2) No building shall be located less than 100 feet from any boundary line of an R-1 District.
- (3) No building shall have a front yard setback less than 100 feet in depth.
- (4) No building shall have a side yard setback less than fifty feet in depth.
- (5) No building shall have a side street yard setback less than 100 feet in depth.
- (6) No building shall have a rear yard setback of less than fifty feet in depth.
- (7) The floor area ratio shall not exceed .35.
- (8) Every lot or plot of land on which a building or buildings is constructed shall contain a total area of not less than seven acres, have a minimum width of 300 feet, and have a minimum depth of 350 feet.
- (9) There shall be a landscaped buffer strip at least 75 feet in width which shall contain no structures and shall not be used for parking along each property line abutting an R-1 Zoning District. The buffer strip shall contain a four to six foot evergreen hedge or fence which shall not extend to within fifteen feet of a street right-of-way.
- (10) All rooftop mechanical equipment shall be screened from view from all points on the ground. (Code of 2001)

Article 6. General Requirements in a Business District

Sec. 5-510. Reserved. (Code of 2001)

Sec. 5-520. Repealed. (Code of 1988; Ord. No. 567, 12-13-88)

Sec. 5-530. Repealed. (Code of 1988; Ord. No. 567, 12-13-88)

Sec. 5-540. Repealed. (Code of 1988; Ord. No. 567, 12-13-88)

Sec. 5-550. Fences in a Business District.

The placement or construction of a fence in a business district shall be subject to regulations contained in Sections 4-540 (1) through (3) except as hereinafter modified.

(1) No fence shall be erected in a zoned business district except in conformance with the following:

A. Fences erected in the front yard or in the street side yard of a lot shall not exceed 3 1/2 feet in height and shall have at least 75% of their vertical surface plane open when viewed from a point perpendicular to that plane. Where higher or more solid fences are required by other sections of the Zoning Code, the requirements of those other sections shall govern.

B. Fences erected in other yards shall not exceed six feet in height. (Code of 2001)

Sec. 5-560. Performance Standards.

Any use established in a business district after October 24, 1968, shall be so operated as to comply with the performance standards contained in Section 6-390. (Code of 2001)

Sec. 5-570. Flood Plain Management.

All business zoned lands within the City subject to periodic inundation as shown on the official flood plain zoning map shall be subject to all regulations contained in Chapter 10. (Code of 2001)

Sec. 5-580. Special Requirements in Business Districts.

(1) All business, storage, service, repair or processing, or merchandising display shall be conducted wholly within an enclosed building or behind a solid fence not less than five feet high except for establishments of a drive-in type offering goods or services directly to customers and except for off-street parking and loading.

(2) Where a business structure or use abuts upon an R-1 or R-2 Residential District, or is separated from such Residential District only by an alley or is across the street from such District, there shall be a protective strip of not less than 25 feet in width established as a buffer zone. This buffer zone shall be kept landscaped, contain no structures, and shall not be used as a parking lot, off-street loading, or storage. Except for buffer zones across the street from an R-1 or R-2 Residential District all other required buffer zones in accordance with this Section shall contain a compact evergreen hedge or fence but such hedge or fence shall not extend within fifteen feet of a street right-of-way. The planting or fence design must be approved by the City as being in harmony with a residential neighborhood and providing sufficient screening of the commercial area. The hedge or fence shall not be less than four and not more than six feet in height.

(3) Where a business structure or use abuts an R-3A or R-3B District, there shall be a buffer strip at least fifteen feet wide screened in accordance with Section 5-580 (2). (Code of 2001)

Sec. 5-590. Height Exceptions.

Those types of structures that are proposed to exceed the height limitations of a business district are regulated by Section 4-600 of the Zoning Code. (Code of 2001)

Article 7. Palmer Drive Overlay Area

Section 5-610. Purpose and Intent.

The area located at 1101 – 1151 Silver Lake Road was redeveloped in late 2007 and early 2008 through a Planned Unit Development. The City recognizes this site, currently known as Brighton Village, together with nearby properties, as a redevelopment area. Further, the City recognizes the need for in-fill development in this area and has determined that it is in the public interest to accommodate in-fill development that is consistent with the development parameters approved with the Brighton Village Planned Unit Development.

The City wishes to accomplish these goals through establishment of an overlay area. This will allow the City to specify the properties that may take advantage of such overlay standards without undermining the intent of the existing zoning regulations. A property lying within this overlay area may choose whether or not to take advantage of this Article, as the underlying zoning will remain in full force and effect.

The intent of the Council in establishing this overlay area is to allow variations from the underlying zoning standards through the Site Plan procedures of Section 8-010 and Special Use procedures of Sections 8-110 through 8-130 when such variations are consistent with variations approved through the Brighton Village Planned Unit Development.

Section 5-620. Designation of the Palmer Drive Overlay Area.

The following properties are included within the Palmer Drive Overlay Area:

- (1) Any property with a zoning designation of B-3, General Business and abutting Brighton Village at 1101 – 1151 Silver Lake Road.
- (2) Any property with a zoning designation of B-3, General Business and located on the north side of Palmer Drive, east of Silver Lake Road.
- (3) Any property with a zoning designation of B-3, General Business on the west side of Silver Lake Road, north of Interstate 694, east of 27th Avenue NW, and south of Innsbruck Drive subject to Council discretion.

Section 5-630. Permitted Variations.

Any property in the Palmer Lake Overlay Area may take advantage of the following permitted Zoning Code variation:

- (1) A reduced parking setback from that required under Zoning Code Section 11-020 (6) of 15', except when such setback is abutting property zoned for residential uses, if no other variations are requested.

Section 5-640. Special Variations.

Any property in the Palmer Lake Overlay Area may take advantage of the following Zoning Code variations by review and approval of a Special Use Permit:

(1) A reduced parking setback from that required under Zoning Code Section 11-020 (6) to between 0' and 15', except when such setback is abutting property zoned for residential uses.

(2) A reduced building setback from that required under Zoning Code Section 5-250 (which defers to Section 5-150) to between 0' and 30', except when such setback is abutting property zoned for residential uses.

Section 5-650. Special Use Standards and Procedures.

The procedure for consideration of special uses under this Article is as set forth in Sections 8-110 through 8-113. In addition to the standards set forth in Section 8-130, the Council, with a recommendation from the Planning Commission, will approve such use only upon a finding that such variations are consistent with the development parameters of Brighton Village and of adjacent and nearby uses developed in accordance with this Article including, but not limited to, parameters relating to:

(1) Enhanced Landscaping;

(2) Pedestrian linkages to neighboring developments for residents, employees, or shoppers that use decorative crosswalk treatment types; and

(3) Architectural styling compatible with Brighton Village at 1101 – 1151 Silver Lake Road or adjacent uses in the overlay area. (Ord. 769 11-25-2008)