

Town of Brighton, NY
Thursday, December 7, 2023

Chapter 203. District Use Regulations

Article XI. General Commercial District (BF-2)

§ 203-84. Permitted and conditional uses.

In a General Commercial BF-2 District, no building or premises shall be used and no building or part of a building shall be erected, in whole or part, for any uses except the following:

- A. Permitted uses shall be as follows, provided that they do not exceed 20,000 square feet of floor area and subject to the requirements specified below and elsewhere in these regulations, including the administrative review mechanism, and site plan approval in accordance with Chapter **217**, Article **III**, of these regulations:
- (1) Government, business/professional and medical offices and offices for nonprofit organizations.
 - (2) Consumer service, business service and repair service establishments.
 - (3) Art, craft, dance, music, martial arts and similar instruction and/or display studios and fitness facilities.
 - (4) Self-service laundries or dry-cleaning dropoff.
 - (5) Retail sales of non-food items, such as sales of shoes, clothing, home furnishings, antiques, small appliances, computers and electronic equipment, hardware, paint and wallpaper, sport/hobby equipment, books, luggage, cards and gifts, jewelry, liquor, drugs, fabrics and flowers; but excluding vehicle sales.
[Amended 11-25-2008 by L.L. No. 6-2008]
 - (6) Retail sales as permitted in Subsection **A(5)** above, that include, as a minor, ancillary component, the sale of prepackaged food items prepared off-site for consumption off of the premises.
[Added 11-25-2008 by L.L. No. 6-2008]
- B. Conditional uses shall be permitted as follows, subject to approval by the Planning Board in accordance with Chapter **217**, Article **II**, hereof and subject to the requirements specified below and elsewhere in these regulations, including site plan approval, in accordance with Chapter **217**, Article **III**, of these regulations:
- (1) Banks, with or without drive-through facilities, subject to the requirements of § **207-14.3**, Drive-through standards. Banks with automatic teller machines shall also be subject to the standards in § **203-84B(2)**
 - (2) Automatic teller machines, as a principal use or an accessory use to a permitted or conditionally permitted use, subject to the following standards:
 - (a) Automatic teller machines shall be located and screened so that, when the requirements of all state and federal laws are met, there is no overflow of light from the automatic teller machine or any access paths or drives onto any residential properties. A lighting plan shall be submitted showing the location, direction, power and time of use for any proposed outdoor lighting.

- (b) Automatic teller machines configured as drive-throughs shall meet the requirements of § **207-14.3**, Drive-through standards, except that the lighting requirements in this section shall apply if they are more restrictive.
 - (c) All other requirements of these regulations are met, except that the lighting requirements in this section shall apply if they are more restrictive.
- (3) Restaurants, with or without live entertainment, subject to the following conditions:
- (a) The restaurant shall have a minimum square foot gross floor area space in the dining room area of 15 square feet per seat.
 - (b) The requirements of § **207-14.2**, Supplemental restaurant regulations, are met.
 - (c) The occupancy of restaurants with live entertainment on the premises shall be approved by the Town Fire Marshal.
 - (d) The property shall be appropriately landscaped and screened and buffered from adjacent uses in accordance with Chapter **207**, Article **V**, and the Table of Uses in Appendix Part 1 of these regulations and any streetscape design guidelines developed for the Town's commercial areas. Any such guidelines would be located in Appendix Part 5.
 - (e) No restaurant use shall be located within 50 feet of a property line adjoining a residential district.
[Added 6-26-2002 by L.L. No. 4-2002]
- (4) Outdoor dining facilities as accessory uses to restaurants, subject to the following standards:
- (a) Outdoor dining facilities shall only be allowed in conjunction with legally established restaurants located on the same parcel and shall only operate during the hours of operation of the associated restaurant. Outdoor dining facilities shall not be located on any public property.
 - (b) No live or broadcast music or other entertainment shall be allowed in conjunction with an outdoor dining facility.
 - (c) Outdoor dining facilities shall be used only for dining by seated patrons. No bars for the service of alcohol, food preparation areas or dance areas shall be permitted in an outdoor dining area.
 - (d) Location and configuration.
 - [1] Outdoor dining facilities shall be located and configured so as to:
 - [a] Ensure, to the satisfaction of the Planning Board, the safe and unhindered passage of pedestrians and/or vehicles; and
 - [b] Prevent the escape of litter from the dining area.
 - [2] The Planning Board may require aesthetically pleasing barriers, such as wooden railings with lattice work, solid vegetative hedges (either in-ground or in planters) or decorative metal barriers, to accomplish these objectives or to enhance the aesthetic appeal of the dining area.
 - (e) The capacity of any outdoor facilities shall be limited to 50 seated patrons with such seating capacity included when calculating parking requirements.
 - (f) The area of any outdoor dining facility shall not exceed 750 square feet.
 - (g) During each day of operation of an outdoor dining facility, a restaurant employee shall regularly patrol the area within 300 feet of the outdoor dining facility to collect any trash or litter which may have been generated by restaurant operations or customers.

- (h) Outdoor dining facilities located in any yard except a front yard shall be a minimum of 100 feet from any adjacent residential use, shall not be located within any required setback and shall be screened from view to the satisfaction of the Planning Board.
- (i) Outdoor dining facilities shall be permitted in a front yard not abutting a residential district, subject to the following conditions:
 - [1] Outdoor dining facilities situated at grade shall not be located within 20 feet of the front property line.
 - [2] Outdoor dining facilities located above grade shall not be located within the required front setback.
- (j) All other requirements of these regulations are met.
- (5) Specialty food stores, convenience stores/neighborhood grocery stores, supermarkets and otherwise permitted or conditionally permitted retail uses involving food sales, subject to the following conditions:
 - (a) All uses involving on-premises food preparation shall meet the requirements applicable to restaurant uses listed in § **207-14.2**, Supplemental restaurant regulations.
 - (b) All uses involving sales of food capable of being immediately consumed which is sold in disposable packaging shall meet the requirements applicable to restaurant uses listed in § **207-14.2**, Supplemental restaurant regulations, Subsection **A(4)**, Litter.
 - (c) The requirements of § **207-14.2**, Supplemental restaurant regulations, Subsection **A(2)**, Refuse handling, are met.
- (6) Neighborhood dry-cleaning facilities, subject to the following provisions:
 - (a) Gross floor area shall not exceed 2,500 square feet.
 - (b) The applicant shall show, to the satisfaction of the Planning Board and/or Fire Marshal, that there is not an unacceptable risk of fire or outside emission of noxious or malodorous vapor associated with the operation of the facility. Determination of what constitutes an unacceptable risk shall be made by the Planning Board.
 - (c) All applicable federal and state regulations are complied with.
- (7) Nursing homes and day-care centers.
- (8) Public utilities and government buildings other than offices, excluding power plants and maintenance and storage facilities.
- (9) Cultural facilities.
- (10) Places of worship.
- (11) Mortuaries and funeral homes, excluding crematoria.
- (12) Animal hospitals and kennels, subject to the following special requirements: No building or kennel exercise pen shall be nearer than 100 feet to any residence or residential district boundary.
- (13) Commercial recreational facilities within a fully enclosed building, including but not limited to fraternal lodges, bowling alleys and theaters.
- (14) Drive-through facilities as accessory uses to permitted or conditionally permitted uses, subject to the requirements of § **207-14.3**, Drive-through standards, and any other requirements that may be imposed by the Planning Board.
- (15) Small engine sales.

- (16) General equipment rental.
- (17) Neighborhood convenience centers, community shopping centers, single retail uses, such as department stores, big box retailers and building supply stores, and other permitted or conditionally permitted uses which occupy more than 20,000 square feet of floor area, subject to other requirements of these regulations and the following special requirements:
- (a) Any new or expanded building greater than or equal to 20,000 square feet of floor area shall be a minimum distance from any side property line of 25 feet.
 - (b) The applicant shall demonstrate, through the use of reports and data acceptable to the Town, that the use will not result in an adverse change in traffic levels on any streets within the Town and that the use will not result in an unacceptable increase in traffic or on-street parking on any residential streets within the Town. Determination of the level of increase of traffic or parking that constitutes an adverse change or unacceptable increase shall be made by the Planning Board.
- (18) New automobile sales establishments with accessory facilities, subject to the following special requirements:
- (a) Minimum lot area shall be one acre, and the minimum lot width shall be 150 feet.
 - (b) Entrance and exit driveways shall have width of not less than 12 feet and shall be so laid out as to avoid the necessity of any vehicle backing out into any public right-of-way.
 - (c) Outdoor storage and display of vehicles shall conform to the requirements of § **205-18B** of these regulations and shall not be permitted on any unpaved area.
 - (d) Vehicle lifts or pits, dismantled automobiles and all parts and supplies shall be located within a building enclosed on all sides.
 - (e) All services or repairs of motor vehicles shall be conducted in a building enclosed on all sides. This requirement shall not be construed to mean that the doors to any repair shop must be kept closed at all times.
 - (f) Gasoline or flammable oils in bulk shall be stored fully underground, not nearer than 10 feet to any street line or 35 feet to any lot line.
 - (g) No commercial sale of gasoline shall be permitted, nor shall any pump be located in a front or side yard.
 - (h) No building permit shall be issued for any such establishment within a distance of 200 feet of any school, church, hospital or other place of public assembly designed for occupancy by more than 50 persons, said distance to be measured in a straight line between the nearest points of each of the lots or premises, regardless of the district in which either of the premises is located.
 - (i) Sale of used cars shall be conducted only as accessory to a new-car sales.
 - (j) There shall be no unenclosed storage of goods, materials, equipment, refuse, garbage or debris, except as permitted in this section.
- (19) Motels, motor inns and hotels, subject to the following special requirements:
- (a) Minimum lot area shall be one acre, plus 2,000 square feet of lot area for each guest room over 10.
 - (b) The minimum lot width shall be 100 feet. The minimum lot depth shall be 200 feet.
 - (c) The maximum height shall be 40 feet and the maximum building length shall be 160 feet.
 - (d) The maximum lot coverage shall be 30%.

- (e) Accessory to a motel, the following uses are permitted if planned as an integral part of the motel and, excluding swimming pools, shall not constitute more than 35% of the floor area:
 - [1] Restaurant facilities providing food and drink.
 - [2] Newsstands, gift shops and other shops and facilities for service to motel guests.
 - [3] Convention facilities and other public rooms.
 - [4] Swimming pools as regulated in Chapter **207**, Article **II**, for the exclusive use of the guests of the motel.
- (20) Outdoor storage or display. Outdoor storage or display of goods, merchandise or equipment by a permitted or conditionally permitted use other than new automobile sales, subject to the following requirements:
 - (a) Outdoor storage and display shall be permitted only in the rear yard.
 - (b) Outdoor storage and display shall be permitted only as a permanent, accessory use to a permitted or conditionally permitted use.
 - (c) Outdoor storage and display shall be permitted only for items on sale to or for rent to the public.
 - (d) Total outdoor storage and display area on any lot shall not be larger than 20% of the area of the principal, enclosed use on the same lot.
 - (e) All outdoor storage and display areas shall be screened with solid fencing acceptable to the Planning Board to the height of six feet.
 - (f) Stored/displayed items shall not exceed the height of the screening fence.
 - (g) Outdoor storage and display areas shall not be located in the required rear setback.
 - (h) No machinery may be operated in any outdoor storage and display area, with the following exceptions:
 - [1] All uses to the extent necessary for the delivery of merchandise from suppliers.
 - [2] Such machinery as may be determined by the Planning Board not to have significant noise or other negative environmental impacts.

C. Landscaping.

- (1) All new or expanded conditional uses shall be appropriately screened, buffered and landscaped in accordance with Chapter **207**, Article **V**, and Appendix Part 1 of these regulations and any streetscape design guidelines developed for the Town's commercial areas. Any such guidelines would be located in Appendix Part 5. Screening for new or expanded conditional uses shall include a solid fence along any lot line abutting a residentially zoned parcel. Such fence shall be six feet in height or the maximum height allowed in § **207-2** of the Town Code, whichever is less. All other Town regulations pertaining to fences shall be met.
- (2) All new or expanded permitted uses shall be screened with a solid fence along any lot line abutting a residentially zoned parcel. Such fence shall be six feet in height or the maximum height allowed in § **207-2** of the Town Code, whichever is less. All other Town regulations pertaining to fences shall be met.

D. Additional standards. The following additional standards shall apply to all new or expanded permitted and conditional uses in the General Commercial District (BF-2).

- (1) Hours of operation. No use, except approved automatic teller machines, may operate or accept deliveries, nor may a truck or other machinery be operated on the premises of any use, earlier than 6:00 a.m. nor later than 12:00 midnight, except that:

- (a) A business may apply for a conditional use permit to operate until 2:00 a.m. In determining whether to grant such a permit, and the conditions thereof, the Planning Board shall consider, among other factors:
- [1] The impacts of noise generated by such operation, both during hours of operation and from activities which normally take place prior to or following normal operating hours, such as cleaning, setup activities, trash disposal or bottle sorting; and/or
 - [2] The impacts of light generated by the operation itself or the vehicles of customers or employees.
 - [3] The proximity of the use to adjacent residential structures.
 - [4] The methods proposed by the applicant to mitigate the adverse effects of noise, litter, lighting and traffic upon the residential area.
- (b) Twenty-four hour permit.
- [1] A business may apply for a conditional use permit for twenty-four-hour operation, provided that:
 - [a] The business and its parking area are not adjacent to any residential property; or
 - [b] There is a minimum distance of 100 feet between the business and the nearest residential structure, measured from the residential structure to the nearest exterior wall of the portion of the structure containing the business; and any parking area associated with the business is entirely screened from any residential property by intervening structures or with screening, including fencing and opaque vegetation, of at least 10 feet in depth.
 - [2] In determining whether to grant such a permit and the conditions thereof, the Planning Board shall consider the factors listed in Subsection **D(1)(a)** above.
 - [3] The Board may also require from the applicant business-specific or industry data to support the need for extended hours of operation. A conditional use permit for extended hours of operation shall not be granted unless the Planning Board finds that the operation itself and/or mitigation measures proposed by the applicant or imposed by the Board will effectively control negative impacts on residential properties.
- (2) Noise-generating equipment. All air-handling equipment or other noise-generating equipment shall be located a minimum of 10 feet from any property line adjoining a residential district and shall be screened as necessary, in the opinion of the Building Inspector, the Planning Board or the Architectural Review Board, to prevent noise intrusion onto or visibility from adjacent residential properties and adjacent rights-of-way. At the property boundary, noise generated by such equipment shall not be loud enough to interfere with the use and enjoyment of adjacent residential property. All new or expanded permitted and conditional uses are also prohibited from creating any unreasonably loud, disturbing and unnecessary noise as described in Chapter **102**, § **102-3**, of the Town Code.
- (3) Lighting. All lighting shall be designed to eliminate light overflow onto adjacent residential properties. Any signage, building or parking lighting not necessary for security purposes shall be placed on automatic timing devices which allow illumination to commence each day 1/2 hour before the business is open to the public and to terminate 1/2 hour after the close of business.