

PLANNING COMMISSION RESOLUTION

AMENDMENT TO ARTICLE XVII, THE LAND USE AND DEVELOPMENT CODE, OF
THE CITY OF BRIGHTON MUNICIPAL CODE

RESOLUTION NO.: 18-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRIGHTON, COLORADO RECOMMENDING TO THE CITY COUNCIL TO AMEND SPECIFIED SECTIONS OF THE BRIGHTON MUNICIPAL CODE RELATED TO CONDITIONAL USES AND, SETTING FORTH OTHER DETAILS IN RELATION THERETO.

WHEREAS, the *Brighton Municipal Code* contains certain provisions related to conditional uses, including, but not limited to, a definition thereof and the process for applications; and

WHEREAS, land uses continue to change as Brighton continues to grow; and

WHEREAS, during review of the existing regulations, it was determined multiple sections of code needed to be revised to modernize the regulations; and

WHEREAS, City staff has proposed an amendment to the *Brighton Municipal Code* that would modernize the code and create more certainty in the development process; and

WHEREAS, the City Council finds that the amendment, in its entirety, to conditional uses as provided herein are in the best interest of the public health, safety, and welfare.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Brighton, Colorado, hereby recommends to the City Council to amended the sections of the *Brighton Municipal Code* as follows:

Section 1. Section 17-8-60 of the "Brighton Municipal Code" is repealed in its entirety and readopted to read as follows:

- a. Intent. A conditional use is an additional use of land, structures or both that may be allowed with restrictions deemed necessary upon the review and approval of City Council. The conditional use is created in order to recognize that a use or structure may be allowed within a zone district on a specific parcel of ground in an area if restrictions and/or conditions are placed upon such use in order to ensure that such use or structure is compatible with the area in which it is intended to be located.
- b. Applicability. An application for a conditional use may be initiated by the property owner or an authorized agent for any use within an existing or pending zone district permitted as "conditional" as specified in Section 17-8-30(b), as the same may be amended. Applications for the oil and gas conditional use approval process are not subject to Sections

17-8-60(D), 17-8-60(E), and 17-8-60(H) of Code and will instead refer to Section 17-64 for process and review requirements.

- c. Notice Requirements. A conditional use approval follows the notice procedures found in 17-8-30(f).
- d. Review Criteria. The City Council shall consider the following criteria when making a determination as to approval, approval with conditions or denial of a conditional use:
 - 1. The proposed use shall be consistent with the Brighton Comprehensive Plan and other master plans;
 - 2. The location, size, design and operating characteristics of the proposed use or structure shall be compatible with the existing and future land uses within the general area in which the proposed use or structure is to be located and will not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity. Reasonable conditions may be placed on conditional uses or structure to protect the public health, safety and welfare by mitigating impacts to achieve compatibility and complementary design, especially where a nonresidential use is located adjacent to a residential use;
 - 3. The site shall be physically suitable for the type and intensity of the proposed conditional use or structure;
 - 4. The proposed conditional use or structure shall not adversely affect traffic flow or parking in the neighborhood;
 - 5. The conditional use is consistent with the purpose and intent of the zoning district and overlay district in which it is located.
- e. Lapse. Final approval of a conditional use shall be valid for one (1) year. Any conditional use which is not established within one year of its final approval, discontinued for at least one year, or replaced by another use of land, shall expire. Actions to establish use include building permits, certificate of occupancy, business license, or commencement of other City administrative processes that demonstrate a substantial investment.
- f. Approval. Approval of the conditional use shall be by resolution setting forth the conditions, if any, on the approval and whether the conditional use approval shall run with the land, is assignable, or is limited to the continued conditional use of the property by the applicant. If the resolution fails to so provide, the approval shall be limited to the continued use of the property by the applicant.
- g. Recording. The City will record the document of approval for a conditional use approval with the applicable County Clerk and Recorder's office and the City will require the applicant to pay for all recording fees.
- h. Appeal of Decision. If an application for a conditional use is denied by the City Council, an applicant may not apply for a similar Conditional Use, as determined by the Community Development Director, on the same parcel for a period of one (1) year.

Section 2. Section 17-12-20 of the “Brighton Municipal Code” is amended by amending the definition for a *Child care center* to read as follows:

Child care center. A facility, by whatever name known, that is maintained for the whole or part of a day for the care of five (5) or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day care centers, school-age child care centers, before and after school programs, nursery schools, kindergartens, preschools, day camps, summer camps and centers for developmentally disabled children, and those facilities that give twenty-four-hour care for children and includes those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial college or a private or parochial school; except that the term shall not apply to any kindergarten maintained in connection with a public, private or parochial elementary school system of at least six (6) grades or operated as a component of a school district's preschool program operated pursuant to Article 28 of Title 22, C.R.S. The term shall not include any facility licensed as a family child care home or foster care home. Any child care center located within an already approved church or school shall be considered a use-by-right that is accessory to the principal use.

Micro-Brewery. A facility that produces no more than fifteen thousand (15,000) barrels per year of fermented malt beverages on site and shall include a taproom in which guests/customers may sample the product.

Micro-Distillery. A facility that produces no more than fifteen thousand (15,000) gallons per year of spirituous beverages on site and shall include a tasting room in which guests/customers may sample the product.

Micro-Winery. A facility that produces no more than fifteen thousand (15,000) gallons per year of vinous beverages on site and shall include a tasting room in which guests/customers may sample the product.

Transmission Lines. A land use which transmits various resources that are eventually consumed, either in their raw state or processed state, including, but not limited to, electrical lines, water lines, sewage lines, gas lines, and oil lines.

Section 3. Section 17-32-30 the "Brighton Municipal Code" is amended by amending the following Specific Uses to read as follows:

Use Categories	Specific Uses	Zone Districts																										
		R E	R 1	R 1 A	R 1 B	R 2	R 3	M H	D T	M U N C	M U N C	M U R / E C	P U D	S 4 C R	S 4 G W	C O	C 1	C 2	C 3	B P	I 1	I 2	M E	F C	P L	O P E N	A / R	A / E
		X = Use by Right						C = Conditional Use				S = Special Use		T = Temporary Use			None = Prohibited											
COMMERCIAL USES																												
Restaurants	Tavern, cocktail lounge, or bar								X	C	X	X	#															
	Micro-Brewery/Distillery/Winery								X										X			X	X					

RESOLVED, this 13th day of March, 2018.

**CITY OF BRIGHTON, COLORADO
PLANNING COMMISSION**


Chris Maslanik, Chairperson

ATTEST:


Diane Phin, Secretary