

ORDINANCE NO. 877  
STATE OF MINNESOTA  
COUNTY OF RAMSEY  
CITY OF NEW BRIGHTON

AN ORDINANCE IDENTIFYING AND ESTABLISHING CERTAIN INTERIM USES AND THE  
PROCESS FOR THE ISSUANCE OF INTERIM USE PERMITS

THE CITY COUNCIL OF THE CITY OF NEW BRIGHTON ORDAINS:

**Section 1. The City Council of New Brighton hereby amends Zoning Code Chapter 2; Article 1. General Conditions; Section 2-020 Definitions, as follows:**

- (1) **Accessibility Improvements.** Any special property improvements such as sidewalks, ramps, lifts, etc., that may be needed to ensure accessibility for people with disabilities

Existing definitions (1) through (43) are hereby renumbered as definitions (2) through (44).

- (45) **Interim Use.** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Existing definitions (44) through (80) are hereby renumbered as definitions (46) through (82).

**Section 2. The City Council of New Brighton hereby amends Zoning Code Chapter 8, Article 2. Special Use Permit and Variance, as follows:**

**Article 2. Special Use Permits, Interim Use Permits, and Variances.**

Sections 8-110 through 8-130 are restated and incorporated herein unchanged.

~~Sections 8-140 through 8-200. Reserved.~~

**Sec. 8-140. Interim Use Permit.**

- (1) Purpose and Intent. The purpose and intent of allowing interim uses is:
- A. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
  - B. To allow a use that is presently acceptable, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.

- 28 C. To allow a use which is reflective of anticipated long-range change to an area and which  
29 is in compliance with the Comprehensive Plan provided that said use maintains harmony  
30 and compatibility with surrounding uses and is in keeping with the architectural character  
31 and design standards of existing uses and development.

32 **Sec. 8-145. Application.**

33 Applications for an interim use permit shall be made by the fee owner or authorized representative  
34 of the fee owner of the property upon which the interim use is proposed. All applications for an  
35 interim use permit shall include:

- 36 (1) A completed City of New Brighton application form;  
37 (2) Verification of authority to file the application (i.e., proof of ownership or control of the  
38 property; if not the owner of the property, the signature of the fee owner of the property);  
39 (3) A letter from the applicant explaining the proposed interim use, why it's needed, and stating  
40 the date or event that will terminate the use or trigger required changes;  
41 (4) A location map showing the general location of the proposed use within the community and  
42 the principal land uses surrounding the parcel on which the interim use is proposed;  
43 (5) Development plans for the proposed interim use showing all information deemed necessary  
44 by the Department of Community Assets & Development to ensure that it can be determined  
45 whether the proposed development will meet all applicable development standards. Such  
46 information may include but shall not be limited to the following:  
47 A. Site plan drawn to scale showing parcel and existing topography;  
48 B. Location of all buildings and the size of each, including square footage;  
49 C. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and  
50 sidewalks;  
51 D. Natural features such as woodlands, wetlands, shorelines, etc.;  
52 E. Landscaping and screening plans, including species and size of trees and shrubs  
53 proposed;  
54 F. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface  
55 water accumulated;  
56 G. Type of business or activity and proposed number of employees;  
57 H. Proposed floor plan and elevations of any building with use indicated;  
58 I. Proposed outdoor storage spaces (if applicable); and  
59 J. Signage plan.  
60 (6) If deemed necessary by the Department of Community Assets and Development, a survey  
61 may be required to be submitted with the application in addition to or in lieu of a site plan.

- 62 (7) A signed consent agreement, provided by the City of New Brighton, agreeing:
- 63 A. That the applicant, owner, operator, tenant and/or user has no entitlement to future re-
- 64 approval of the interim use permit;
- 65 B. That the interim use will not impose additional costs on the public if it is necessary for
- 66 the public to fully or partially take the property in the future; and
- 67 C. That the applicant, owner, operator, tenant and/or user will abide by conditions of
- 68 approval that the City Council attaches to the interim use permit.
- 69 (8) Any other information that may be reasonably required by the City to evaluate the
- 70 application.

71 **Sec. 8-150. Review.**

- 72 (1) **Interim Use Review Criteria.** Approval of an interim use permit requires that the City find
- 73 that conditions (if needed) can be established to ensure all of the following criteria will
- 74 always be met:
- 75 A. The use is allowed as an interim use in the respective zoning district and conforms to
- 76 standard zoning regulations unless exempted by the specific interim use type;
- 77 B. The use will not adversely affect nearby properties through nuisance, noise, traffic, dust,
- 78 odor, or unsightliness; and will not otherwise adversely affect the health, safety, and
- 79 welfare of the community;
- 80 C. The use will not adversely impact implementation of the Comprehensive Plan;
- 81 D. The date, event, or change in circumstances that will terminate the use is identified with
- 82 certainty;
- 83 E. The applicant has signed a consent agreement stating that the applicant, owner, operator,
- 84 tenant and/or user has no entitlement to future re-approval of the interim use permit as
- 85 well as agreeing that the interim use will not impose additional costs on the public if it is
- 86 necessary for the public to fully or partially take the property in the future;
- 87 F. The applicant agrees to all conditions that the City Council deems appropriate to allow
- 88 the interim use including, but not limited to, the requirement of appropriate financial
- 89 surety to cover the cost of removing the interim use and any interim structures upon the
- 90 expiration of the interim use permit;
- 91 G. There are no delinquent property taxes, special assessments, or City utility charges due
- 92 upon the subject parcel;
- 93 H. The interim use will adhere to any applicable additional criteria for the use required in the
- 94 applicable zoning district; and
- 95 I. The term of the interim use does not exceed two years unless an end date for the use is
- 96 attached to a specific triggering event.

97           (2)   **Planning Commission.**

- 98           A.   Before any interim use permit is considered by the City Council, the Planning  
99               Commission shall hold at least one public hearing after proper notice has been issued in  
100              accordance with Section 8-055.
- 101           B.   Following the hearing and subsequent discussion on the merits of the proposal, the  
102               Planning Commission shall adopt findings on the general interim use review criteria for  
103              consideration by the City Council.
- 104           C.   Applications may be forwarded to the City Council without a recommendation from the  
105               Planning Commission if it is deemed necessary to ensure compliance with state-  
106              mandated deadlines for application review.

107           (3)   **City Council.**

- 108           A.   The City Council shall consider recommendations from the Department of Community  
109               Assets and Development, recommendations from the Planning Commission, and the  
110               comments received at the public hearing to evaluate the request against the general and  
111               specific review criteria applicable to the use, and take action on the request(s).
- 112           B.   Decisions on an interim use permit shall require a majority vote of a quorum of the City  
113               Council.
- 114               1.   In approving an interim use permit, the City Council shall support the decision with  
115                    findings of fact as to why the permit request is being approved.
- 116               2.   Denial of any request shall be accompanied by findings of fact as to why the  
117                    requested permit cannot be approved.

118           **Sec. 8-155. Reasonable Conditions.**

119           In approving an interim use permit, the City may adopt and impose such reasonable conditions and  
120           requirements as it deems necessary and appropriate to ensure continued compliance with the  
121           interim use permit review criteria.

122           **Sec. 8-160. Effect of Interim Use Permit Approval.**

- 123           (1)   The issuance of an interim use permit shall authorize only the improvements and use  
124               approved by the City Council as an interim use over the specified timeframe.
- 125           (2)   An interim use permit, including any conditions, shall run with the land and shall not be  
126               affected by a change in ownership of the property unless it is stated in the interim use permit  
127               that a change in ownership of the property will terminate the interim use permit.

128 **Sec. 8-175. Subsequent Development.**

129 Development authorized by the interim use permit shall not be carried out until the applicant has  
130 secured all other approvals required by this zoning ordinance or any other applicable chapters or  
131 regulations. The granting of an interim use permit by the City does not constitute, imply, or  
132 guarantee the granting of any other such required approvals (e.g., a building permit).

133 **Sec. 8-165. Termination.**

134 An interim use permit shall be terminated, and the interim use removed for any of the following  
135 reasons, whichever occurs first:

- 136 (1) The date, event, or circumstances stated in the permit;  
137 (2) Upon violation of conditions under which the permit was issued;  
138 (3) Upon a change in the City's zoning regulations which renders the use nonconforming; or  
139 (4) The redevelopment of the use and property upon which it is located to a permitted or  
140 conditional use as allowed within the respective zoning district.

141 **Sec. 8-170. Revocation.**

142 The City Council may revoke an interim use permit upon finding that any of the conditions set forth  
143 in the permit are violated or if there are any other violations of federal, state, or local laws or  
144 regulations relating to the interim use permit. The City shall notify the holder of the interim use  
145 permit of the violation(s) in writing and provide a reasonable amount of time for the holder to  
146 correct the violation(s). If the violation(s) are not corrected within the time specified in the notice,  
147 the City Council may revoke the interim use permit. Before the revocation is considered, the City  
148 Council shall hold a public hearing after written notice has been provided to the interim use permit  
149 holder and property owners within 350 feet of the property subject to the interim use permit. Such  
150 notice shall be mailed to the last known address of the owners at least 10 days prior to the hearing.  
151 Following the hearing and subsequent discussion, the City Council may revoke the interim use  
152 permit by adopting a resolution with findings of fact that include the basis for the revocation.

153 **Sec. 8-180. Amendments.**

154 All requested amendments to an existing interim use permit shall be processed in the same manner  
155 as a new application.

156 **Sec. 8-185. Renewals.**

157 The following process may be used to renew an active interim use permit that is set to expire.  
158 Terminated interim use permits cannot be renewed.

- 159 (1) Application. Application requirements for renewal of an existing interim use permit shall be  
160 the same as for a new application.

(2) Review. Upon receiving a complete application for an interim use permit renewal, the Department of Community Assets & Development shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Department of Community Assets & Development shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. The City Council at its discretion may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.

**Sections 8-190 through 8-200. Reserved.**

Sections 8-210 through 8-720 are restated and incorporated herein unchanged.

**Section 3. The City Council of New Brighton hereby amends Zoning Code Chapter 6, Article 1, I-1, Light Industrial District, as follows:**

Sections 6-010 through 6-050 are restated and incorporated herein unchanged.

**Sec. 6-055. Interim Permitted Uses in an I-1 District.**

- (1) Outdoor recreational improvements for employees such as patios, pergolas, or barbeque/grill stations within required side or rear yard setbacks provided the following conditions exist:
- A. The adjacent parcel is currently in a natural or undeveloped state within 40 feet of the proposed improvement; and
  - B. The applicant agrees to remove or protect the outdoor recreational improvement as directed by the Department of Community Assets & Development at such time as any development occurs on the adjacent parcel within 40 feet of the proposed improvement.

Sections 6-060 is restated and incorporated herein unchanged.

**Section 4. The City Council of New Brighton hereby amends Zoning Code Chapter 4, Article 1, Single Family Residence District, as follows:**

Sections 4-010 through 4-030 are restated and incorporated herein unchanged.

**Sec. 4-035. Interim Permitted Uses in an R-1 District.**

- (1) Accessibility Improvements. Accessibility improvements within a required setback provided the following conditions exist:

- 190 A. The applicant can demonstrate the proposed location is the only reasonably available  
191 option to provide needed access to the intended structure.
- 192 B. The improvement is designed to eliminate or mitigate potential impacts on adjacent  
193 property.
- 194 C. The applicant agrees to remove the accessibility improvement as directed by the  
195 Department of Community Assets & Development at such time as the residence no  
196 longer serves, in some capacity, the individual in need of the improvement.

197 Section 4-040 is restated and incorporated herein unchanged.

198 **Section 5. The City Council of New Brighton hereby amends Zoning Code Chapter 4, Article 2, R-1A**  
199 **District, as follows:**

200 Sections 4-110 through 4-130 are restated and incorporated herein unchanged.

201 **Sec. 4-135. Interim Permitted Uses in an R-1A District.**

- 202 (1) Any interim use or structure permitted and regulated under “interim permitted uses” in the R-1  
203 District.

204 Section 4-140 is restated and incorporated herein unchanged.

205 **Section 6. The City Council of New Brighton hereby amends Zoning Code Chapter 4, Article 3, R-2**  
206 **District, as follows:**

207 Sections 4-210 through 4-230 are restated and incorporated herein unchanged.

208 **Sec. 4-235. Interim Permitted Uses in an R-2 District.**

- 209 (1) Any interim use or structure permitted and regulated under “interim permitted uses” in the R-1  
210 District.

211 Section 4-240 is restated and incorporated herein unchanged.

212 **Section 7. The City Council of New Brighton hereby amends Zoning Code Chapter 4, Article 4, R-3A**  
213 **District, as follows:**

214 Sections 4-310 through 4-330 are restated and incorporated herein unchanged.

**Sec. 4-335. Interim Permitted Uses in an R-3A District.**

(1) Any interim use or structure permitted and regulated under “interim permitted uses” in the R-1 District.

Section 4-340 is restated and incorporated herein unchanged.

**Section 8. The City Council of New Brighton hereby amends Zoning Code Chapter 4, Article 4, R-3B District, as follows:**

Sections 4-410 through 4-430 are restated and incorporated herein unchanged.

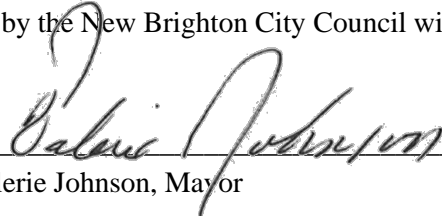
**Sec. 4-435. Interim Permitted Uses in an R-3B District.**

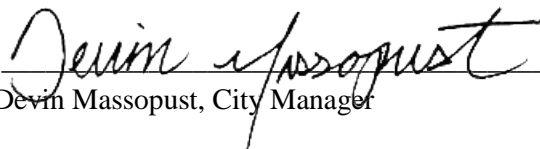
(1) Any interim use or structure permitted and regulated under “interim permitted uses” in the R-1 District.

Sections 4-440 through 4-454 are restated and incorporated herein unchanged.

**Section 9. Effective Date.** This ordinance shall be in full force and effect from and upon its adoption and publication according to law.

ADOPTED this 22<sup>nd</sup> day of September, 2020, by the New Brighton City Council with a vote of 4 ayes and 0 nays (Fyneweever absent).

  
Valerie Johnson, Mayor

  
Devin Massopust, City Manager

ATTEST:

  
Terri Spangrud, City Clerk





## CONSENT AGREEMENT

WHEREAS, on September 22<sup>nd</sup>, 2020, the City Council of the City of New Brighton adopted Ordinance No. 877 which establishes a framework for regulating temporary use of land through the issuance of interim use permits; and

WHEREAS, Section 8-145(7) of the New Brighton Zoning Code requires an applicant for an interim use permit to sign a Consent Agreement wherein the applicant acknowledges and agrees that the proposed interim use will not impose additional costs on the public if there is a future need for public acquisition of the applicant's property through eminent domain and that the applicant has no entitlement to future re-approval of the interim use permit;

NOW, THEREFORE, \_\_\_\_\_, as applicant for an interim  
use permit for \_\_\_\_\_ at  
\_\_\_\_\_, agrees as follows:  
(name)  
(use of property)  
(location)

1. If this application is approved by the New Brighton City Council and an interim use permit is issued, the interim use of the property will not impose additional costs on the City or any other public entity if it is necessary to acquire the property or a portion thereof after issuance of the interim use permit.
2. The applicant acknowledges that the proposed use is temporary and terminates upon expiration of the interim use permit. The applicant has no legal or equitable right to future re-approval of the interim use permit and must file an application for that purpose.
3. The applicant will comply with all conditions imposed by the City Council on the interim use permit.
4. This Consent Agreement shall be binding on any owner, operator, tenant and/or user of the property for which the interim use permit has been granted, and the applicant is authorized to sign this Consent Agreement on behalf of said owner, operator, tenant and/or user of the property.

DATED: \_\_\_\_\_  
\_\_\_\_\_  
*Applicant (Applicant must be the Property Owner)*

STATE OF MINNESOTA    )  
  ) SS  
COUNTY OF RAMSEY    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_, the \_\_\_\_\_ of  
\_\_\_\_\_, a Minnesota \_\_\_\_\_, on  
behalf of said company.

\_\_\_\_\_  
Notary Public