

3.3-10. "C-4" resort commercial district. The following regulations shall apply in all "C-4" districts:

(a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right:*

Residential uses:

Accessory building/structure
Accessory dwelling (one accessory dwelling per lot, no kitchen)
Bed and breakfast inn (see Sec. 5.6)
Boardinghouse/lodging house
Cabin or cottage – either separate or connected, for rental to tourists or vacationers, but shall not include mobile homes, or mobile home communities (parks).
Campgrounds
Community home (see definition)
Dormitory (in which individual rooms are for rental)

Duplex / two-family / duplex condominiums
Family home adult care
Family home child care
Home Occupation (See Sec. 5.5)
Multifamily (apartments/condominiums - for three or more families)
One family dwelling, detached
Rental or occupancy for less than one month (see Sec. 5.17)
Residential use in buildings with the following non-residential uses
Single family industrialized home (see Sec. 5.8)

Non-residential uses:

Accounting, auditing, bookkeeping, and tax preparations
Adult day care (no overnight stay)
Adult day care (with overnight stay)
Amphitheater
Amusement devices/arcade (four or more devices)
Amusement services or venues (indoors) (see Sec. 5.13)
Amusement services or venues (outdoors)
Answering and message services
Archery range
Armed services recruiting center
Art dealer / gallery
Artist or artisan's studio
Assembly/exhibition hall or areas
Bakery (retail)
Bank, savings and loan, or credit union
Bar/Tavern
Barns and farm equipment storage (related to agricultural uses)
Bicycle sales and/or repair
Billiard / pool facility
Bingo facility
Book store
Bowling alley/center (see Sec. 5.13)
Cafeteria / café / delicatessen
Campers' supplies
Car wash (self service; automated)
Car wash, full service (detail shop)
Caterer
Check cashing service

Child day care/children's nursery (business)
Church/place of religious assembly
Civic/conference center and facilities
Club (private)
Coffee shop
Commercial amusement concessions and facilities
Community building (associated with residential uses)
Confectionery store (retail)
Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)
Convenience store, with or without fuel sales
Country club (private)
Credit agency
Curio shops
Day camp
Driving range
Drug sales/pharmacy
Electrical substation
Farmers market (produce market - wholesale)
Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)
Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)
Feed and grain store
Filling station (fuel tanks must be below the ground)
Florist
Food or grocery store with or without fuel sales
Fraternal organization/civic club (private club)

Golf course (miniature)
 Golf course, public or private
 Governmental building or use
 Handicraft shop
 Health club (physical fitness; indoors only)
 Hospital, general (acute care/chronic care)
 Hospital, rehabilitation
 Hotel/motel
 Hotels/motels - extended stay (residence hotels)
 Kiosk (providing a retail service)
 Laundromat and laundry pickup stations
 Limousine / taxi service
 Micro brewery (onsite manufacturing and/or sales)
 Motion picture studio, commercial film
 Motion picture theater (indoors)
 Motion picture theater (outdoors, drive-in)
 Museum
 Nursing/convalescent home/sanitarium
 Offices, brokerage services
 Offices, business or professional
 Offices, computer programming and data processing
 Offices, consulting
 Offices, engineering, architecture, surveying or similar
 Offices, health services
 Offices, insurance agency
 Offices, legal services - including court reporting
 Offices, medical offices
 Offices, real estate
 Offices, security/commodity brokers, dealers, exchanges and financial services
 Park and/or playground (public or private)
 Parking lots (for passenger car only) (not as incidental to the main use)
 Parking structure/public garage
 Photographic studio (no sale of cameras or supplies)

Plant nursery (no retail sales on site)
 Public recreation/services building for public park/playground areas
 Quick lube/oil change/minor inspection
 Rappelling facilities
 Recreation buildings (public and private)
 Refreshment/beverage stand
 Restaurant with drive-through
 Restaurant/prepared food sales
 Retirement home/home for the aged - public
 Rodeo grounds
 RV park
 RV/travel trailer sales
 School, K-12 (public or private)
 Security monitoring company (no outside storage or installation)
 Specialty shops in support of project guests and tourists
 Tattoo or body piercing studio
 Telemarketing agency
 Telephone exchange buildings (office only)
 Tennis court (commercial)
 Theater (non-motion picture; live drama)
 Travel agency
 University or college (public or private)
 Video rental / sales
 Waterfront amusement facilities - berthing facilities sales and rentals
 Waterfront amusement facilities - boat fuel storage / dispensing facilities
 Waterfront amusement facilities - boat landing piers / launching ramps
 Waterfront amusement facilities - swimming / wading pools / bathhouses
 Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system
 Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from any other district described herein.

(2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements.*

(1) Commercial rental living units (short term):

- (i) *Height.* 75 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

- (v) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (vii) *Sanitary facilities.* Each rental unit shall be provided with an individual enclosed space for sanitation, accessible from within the living unit, in which shall be located a water closet furnished with cold water, and a lavatory and bathtub or shower furnished with hot and cold water.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Sec. 5.1 for permitted uses parking.

(2) Non-residential.

- (i) *Height.* 75 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setback.* No side building setback is required except that where a side line of a lot in this district abuts upon the side line of a lot in a "R" or "B-1" zone, a side building setback of not less than five feet shall be provided.
- (v) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet.
- (vii) *Corner lots.* A minimum 25-foot front yard and side building setback adjacent to streets shall be required on all corner lots. A canopy at least six feet in height, attached to the main building, may be built within 15 feet of the street line so long as such construction is not supported by columns which will obstruct the vision of vehicles driving upon adjacent streets.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Section 5.1 for other permitted uses' parking

(3) Non-commercial rental living units (not short term). Buildings hereinafter erected, constructed, reconstructed or altered in district "C-4," that are not for commercial or commercial-residential use but are for private residences, duplexes, or apartments, or for any use also permitted in the "R" districts, shall be subject to the following:

(a) One family dwellings.

- (i) *Height.* 45 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

- (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (viii) *Lot area.* Every one family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet per family for interior lots, and 7,000 square feet per family for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one half acre and one acre on the Edwards Aquifer Recharge Zone.
- (ix) *Lot depth.* 100 feet.
- (x) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See Section 5.1 for other permitted uses' parking.

(b) Duplexes.

- (i) *Height.* 45 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setbacks.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet
- (vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Sec. 5.1 for other permitted uses' parking.

(c) Multifamily dwellings.

- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 25 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building

setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.

- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (vii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (viii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the Planning Commission upon recommendation of the City Sanitarian.
- (ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in Sec. 3.3-3)
- (xi) *Lot depth.* 100 feet.
- (xii) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
 - 1. One-bedroom apartment or unit . . . 1 1/2 spaces
 - 2. Two-bedroom apartment or unit . . . 2 spaces
 - 3. Each Additional bedroom . . . 1/2 space
 - 4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

Types of Special Use Permit:

Type 1. Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

Type 2. Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
 - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
 - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
 - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - (7) Required yards and open space;
 - (8) Height and bulk of structures;
 - (9) Hours of operation;
 - (10) Paving of streets, alleys, and sidewalks,
 - (11) Provisions for drainage,
 - (12) Exterior construction material and building design; and
 - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).

3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:

- (a) Construction is not begun within five years of the date of approval of the permit.
- (b) Progress toward completion is not being made. Progress toward completion includes the following:
 - (1) An application for a final plat is submitted;
 - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
 - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
 - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
 - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
 - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
 - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
 - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
 - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
 - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
 - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
 - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
 - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.