

305 ZONING CODE: INTERIM USE PERMITS

305.010. GENERALLY.

As provided in section 301.090 the City may issue an Interim Use Permit for temporary uses of property including certain home occupations in accordance with the procedures and requirements of this chapter 305.

305.020. PERMIT APPLICATION

Applicants for an Interim Use Permit shall submit an application with the following information:

1. An application form signed by the property owner(s) or authorized representative.
2. The required application fee.
3. The address of the property
4. A complete description of the use.
5. Schedule for commencement of the use.
6. Size of the facility accommodating the use.
7. Hours and dates of operation.
8. Anticipated employment.
9. Floor plan or site plan.

305.030. PROCESS FOR CONSIDERATION OF APPLICATION.

1. All applications for an Interim Use Permit shall be referred to the Planning Commission for consideration. The City Clerk shall mail notice of the Planning Commission meeting at which the matter will be considered to each owner of property within 200 feet of the property to which the Interim Use Permit relates, at least ten days before the meeting. The City shall also give such notice as may be required by state statute.

2. The applicant for the Interim Use Permit shall appear before the Planning Commission to present the application and answer questions. The Planning Commission may also hear from other interested persons and may receive information in writing.

3. The Planning Commission shall consider possible adverse effects of the proposed interim use and identify mitigative measures that may be taken to reduce adverse effects.

4. The Planning Commission shall make a recommendation to the Council on whether to issue the Interim Use Permit and any conditions that should be included if issuance of a permit is recommended.

5. The matter shall be placed on the agenda for a City Council meeting for the Council to make a final decision. The Council may accept, modify, or reject the recommendation of the Planning Commission.

6. The City shall make a decision on an Interim Use Permit within the time limitation of Minnesota Statutes section 15.99.

305.040. STANDARDS GENERALLY.

No Interim Use Permit shall be issued unless the City Council determines the following:

1. The proposed use will not adversely impact implementation of or be in conflict with the City's Comprehensive Plan.
2. The proposed use will not be in conflict with any provisions of the City Code on an ongoing basis.
3. The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.
4. The date or event that will terminate the use has been identified with certainty.
5. The property on which the use is situated is currently in compliance with all applicable City Code standards, property maintenance standards and there are no nuisance characteristics associated with the property or its current use.
6. The applicant has paid the necessary fees established by the City Council for an Interim Use Permit.
7. There are no delinquent property taxes, special assessments, interest, or City utility fees dues upon the parcel of land to which the Interim Use Permit application relates.

305.050. PERMIT CONDITIONS

The City may include with any Interim Use Permit such conditions as the City deems reasonable and appropriate. These conditions may include any or all of the following:

1. Mitigative measures to reduce potential adverse effects.
2. Conditions authorizing City inspection of the premises.
3. The posting of a financial guarantee.
4. Requirements of any city code provision may be included as a condition in the permit.
5. Such other conditions as the City deems are reasonable and appropriate.

305.060. SUSPENSION OR REVOCATION

The City Council may suspend or revoke an Interim Use Permit upon the failure of the permittee, owner, operator, tenant or user to comply with the provisions of this Code, the laws of the State of Minnesota or any condition established at the time of approval of the Interim Use Permit. No suspension or revocation shall be effective without first giving notice to the permittee and providing the permittee with an opportunity to be heard.

305.070. TERMINATION.

An Interim Use Permit shall terminate on the happening of any of the following events, whichever comes first:

1. The date or event stated in the permit occurs.
2. Upon change in the City's zoning regulations the use is no longer permitted.
3. The permittee has not begun the use of the property as allowed by the permit within six months after issuance.
4. The IUP shall expire if the approved use is inactive for one year or longer.
5. Five years after the date of issuance if not terminated earlier.

305.100. HOME OCCUPATIONS. Because Birchwood Village is a residential community, this ordinance and the actions of the City to enforce it are intended to insure that all home occupations shall be unobtrusive to the residents of Birchwood Village. The City has established by ordinance certain home occupations that are allowed and certain home occupations that are prohibited. Home occupations that are neither allowed nor prohibited may be conducted upon the issuance of an Interim Use Permit. The requirements of sections 305.100 to 305.140 shall be construed to be in addition to any other provisions of chapter 305 that are applicable.

305.110. ALLOWED HOME OCCUPATIONS.

The following home occupations are permitted within the city limits of the City of Birchwood, provided the occupation is conducted by a resident of the home and there are not more than two patrons per visitation nor more than six visitations per day.

1. Telecommuting
2. Home office
3. Art Studio that does not involve a foundry or welding
4. Dressmaking and Tailoring
5. Secretarial Services
6. Licensed family day care
7. Foster care
8. Catering
9. Instruction, including music lessons, of no more than two pupils at a time

305.120. PROHIBITED HOME OCCUPATIONS.

The following home occupations are not permitted within the city limit of the City of Birchwood:

1. Body shops
2. Machine shops
3. Welding
4. Flea markets
5. Escort businesses or any sexually oriented business
6. Headquarters or dispatch centers where persons come to the residence and are dispatched to other locations
7. Sale, lease, trade, transfer, repair, or manufacture of major appliances, internal combustion engines, motor vehicles, watercraft, illegal drugs or substances, firearms or ammunition, hazardous materials or explosives, including fireworks
8. Animal boarding kennels.

305.130. HOME OCCUPATIONS ALLOWED BY INTERIM USE PERMIT.

Any home occupation that is not an allowed home occupation under Section 305.020 or a prohibited home occupation under Section 305.021 shall be allowed to operate only after an Interim Use Permit is issued pursuant to this chapter.

305.140. APPLICATION FOR AN INTERIM USE PERMIT.

Applicants for an Interim Use Permit shall submit an application with the information specified in section 305.020 and the following information:

1. a site plan
2. a floor plan
3. a written narrative describing the home occupation and it's compliance or deviation from the code
4. a description of equipment and vehicles to be used for the occupation
5. a schedule for commencement and conduct of the home occupation, including days and hours of operation
6. conditions and limitations on the occupation that the applicant will comply with if the permit is issued
7. any other information requested by the City

305.150. PROCESS FOR CONSIDERATION OF APPLICATION FOR HOME OCCUPATION.

The City shall act on an application for an Interim Use Permit in accordance with the requirements in section 305.030.

305.160. REQUIREMENTS AND STANDARDS FOR HOME OCCUPATIONS.

No Interim Use Permit shall be granted for a home occupation unless the applicant will comply with the following:

1. The home occupation shall be conducted solely within the principal or accessory structures.
2. The nature of the home occupation shall be clearly secondary and incidental to the use of the property as a residence. No more than 20% of the gross floor area of the unit shall be dedicated to the home occupation.
3. No more than one person may be engaged in the business on the premises other than those who customarily reside on the premises.
4. Exterior displays or signs, exterior indication of the home occupation or variation from the residential character of the principal structure shall not be permitted.
5. No home occupation shall be noticeable from adjacent properties or right-of-way nor constitute a fire hazard to neighboring residences, adversely affect

neighboring property values, or constitute a nuisance or otherwise be detrimental to the neighbors because of traffic, noise, glare, odor, electrical interference, magnetic interference, radio and television interference, laser beams, vibration, dust and other nuisance or safety hazards or other factors that may affect neighbors.

6. No home occupations shall adversely affect government facilities and services, including roads, sanitary sewers, city water, storm drainage, garbage service, police service and fire service.

7. No home occupations shall adversely affect sensitive environmental features, including lakes, surface water, underground water supply and quality, wetlands, slopes, soils or factors as found relevant by the city staff or city council.

8. No home occupations shall involve the use of hazardous materials or activities.

9. Deliveries shall be by single rear axle straight trucks normally used by package delivery services in residential neighborhoods. No more than three delivery/pickup trips per day are allowed.

10. The home occupation shall not cause a noticeable increase in traffic congestion on the lot containing the home occupation or on the streets adjacent thereto as compared to that generated by a typical family in a dwelling. Commercial vehicles associated with the home occupation shall make no more than three trips to/from the lot per day.

11. No motor vehicle or trailer parking related to the home occupation shall be permitted on the street.

12. No more than one commercial vehicle associated with the home occupation may be parked on the lot outside a garage.

13. Commercial vehicles larger than one ton associated with the home occupation may not be parked or stored on the lot.

14. No exterior storage of equipment or materials associated the home occupation is permitted at any time.

15. A full time resident must conduct the business.

305.170 INSPECTION

1. Upon issuing an Interim Use Permit for a home occupation, the City of Birchwood Village hereby reserves the right to inspect the premises in which the home occupation is being conducted to insure compliance with the provisions of this section or any conditions additionally imposed.

2. If City officials believe that any home occupation is being conducted out of compliance with any requirement of chapter 305, the City reserves the right to inspect or seek inspection of the premises in which the home occupation is being conducted and to bring action for compliance.

“ESTABLISHED BY ORDINANCE 2012-04, APRIL 10, 2012”