



AGENDA OF THE
REGULAR MEETING OF THE CITY COUNCIL
CITY OF BIRCHWOOD VILLAGE
207 BIRCHWOOD AVENUE
WASHINGTON COUNTY, MINNESOTA
APRIL 10, 2012
7:00 P.M.

CALL TO ORDER – PLEDGE OF ALLEGIANCE

APPROVE AGENDA

COMMUNITY EVENTS AND ANNOUNCEMENTS

OPEN PUBLIC FORUM

CITY BUSINESS – CONSENT CALENDAR

1. Approval of the Minutes of the March 13, 2012 Regular Meeting (see exhibit)
2. Acceptance of the Financial Report and Approval of Disbursements (see exhibit)
3. Appointment of Sara Nephew and Kelly Paradise to the Parks and Natural Resource Committee for three-year terms ending April 2015 (see exhibit)
4. Approval of Proposed Revisions to the Personnel Committee By-Laws (see exhibit)

CITY BUSINESS – REGULAR ORDER

5. 7:15 RESOLUTION 2012-## Adopting Ordinance 2012-## Amending City Code Chapters 301 and 306, And Establishing New City Code Chapter 305, Establishing Interim Uses in the City of Birchwood Village and Regulating Their Use (Mitchell - see exhibit)
 - a. Public Hearing
 - b. Council Deliberation and Consideration of Adoption
 - c. Approval of Summary Publication in the City's Official Newspaper (requires 2/3's vote)Time Budget: 15 minutes
6. 7:30 RESOLUTION 2012-## Adopting Ordinance 2012-## Amending City Code Chapter 203 and RESOLUTION 2012-## Adopting Ordinance 2012-## Amending City Code Chapter 205 Regarding the Building Code and Contractor Licensing (Mitchell - see exhibit)
 - a. Public Hearing
 - b. Council Deliberation and Consideration of AdoptionTime Budget: 15 minutes
7. 7:45 RESOLUTION 2012-## Adopting Ordinance 2012-## Establishing New City Code Chapter 618 Regarding Complaints (Harper/Sampair - see exhibit)
 - a. Public Hearing
 - b. Council Deliberation and Consideration of Adoption
 - c. Approval of Summary Publication in the City's Official Newspaper (requires 2/3's vote)Time Budget: 15 minutes
8. 8:00 RESOLUTION 2012-## Adopting Ordinance 2012-## Establishing New City Code Chapter 619 Regarding Penalties and Enforcement (Mitchell - see exhibit)
 - a. Public Hearing
 - b. Council Deliberation and Consideration of AdoptionTime Budget: 15 minutes

9. 8:15 Revisions to City Code Chapters 611 (Public Works Reserve Fund), 611A (Capital Improvement Fund), and Establishment of New City Code Chapter Regarding Park Special Revenue Fund> Council Review and Consideration of Calendaring for Public Hearing (Harper – see exhibit)
Time Budget: 15 minutes
10. 8:30 Parks Maintenance Costs (Lund)
Time Budget: 15 minutes
11. 8:45 City Engineer's Report (Elfering – see exhibit)
 - a. 2012 Sewer Capital Projects: Discussion
 - b. Bids for General Pothole RepairTime Budget: 15 minutes
12. 9:00 Council Reports
 - a. HARPER: Low Water Levels on White Bear Lake (see exhibit)
 - b. HARPER: Updating the City's Capital Improvement PlanTime Budget: 15 minutes
13. 9:15 Next Meeting – May 8, 2012: Topics
Time Budget: 5 minutes
14. 9:20 ADJOURN



CITY OF BIRCHWOOD VILLAGE
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EXECUTIVE SUMMARY – APRIL 10, 2012 CITY COUNCIL MEETING

NOTE: This executive summary is provided to give a broader detail on the various agenda items. This summary is to be used as an adjunct to the agenda packet, and should not be considered a substitute for reading the agenda packet.

CITY BUSINESS - CONSENT CALENDAR: There are four items on the consent calendar, as follows:

1. Approval of the Minutes of the March 13, 2012 Regular Meeting
2. Acceptance of the Financial Report & Approval of Disbursements
3. Appointment of Sara Nephew and Kelly Paradise to the Parks and Natural Resource Committee. These appointments, if approved, will complete the roster of 9 committee members. .
4. Approval of proposed revisions to the Personnel Committee By-Laws. The revision is for the by-laws to conform to Minn. Stat. § 13D.01 requiring that meetings of committees of the Council follow the state's Open Meeting Law. Mayor Alan Mitchell provided a cover memo that is included in the agenda packet as an exhibit.

CITY BUSINESS – REGULAR ORDER:

5. RESOLUTION 2012-## ADOPTING ORDINANCE 2012-## AMENDING CITY CODE CHAPTERS 301 AND 30 AND ESTABLISHING NEW CITY CODE 305 ESTABLISHING **INTERIM USES** IN THE CITY OF BIRCHWOOD VILLAGE AND REGULATING THEIR USE>PUBLIC HEARING, COUNCIL DELIBERATION AND CONSIDERATION OF ADOPTION, AND APPROVAL OF SUMMARY PUBLICATION IN THE CITY'S OFFICIAL NEWSPAPER: This matter involves the adoption of new ordinance provisions to allow for the issuance of interim use permits instead of conditional use permits where a temporary use is more appropriate than a conditional use that runs with the land. Drafts of the proposed changes have been provided to Council members in the past. The Planning Commission reviewed the proposed changes on February 28 and recommended approval of the changes with only minor amendments. At the April 10 meeting the Council will hold a public hearing to receive public testimony and will then consider adoption of the amendments. If the Council adopts the amendments, it must also decide whether to publish a summary of the final language, rather than the full ordinance revisions.

QUESTIONS: Should the City Council approve these proposed ordinance changes? Should the City Council authorize publication of a summary of the ordinance?

6. RESOLUTION 2012-## ADOPTING ORDINANCE 2012-## AMENDING CITY CODE CHAPTER 203 and RESOLUTION 2012-## ADOPTING ORDINANCE 2012-## AMENDING CITY CODE CHAPTER 205 REGARDING THE **BUILDING CODE AND CONTRACTOR LICENSING**>PUBLIC HEARING AND COUNCIL DELIBERATION AND CONSIDERATION OF ADOPTION: This matter comes before the Council in order to update the references to the State Building Code and to eliminate the provisions relating to fees currently in City Code Chapter 203. Fees are addressed generally in Chapter 701, and the Council recently adopted a fee schedule. The amendments to Chapter 205 primarily reflect the desire to not require separate Birchwood Village licensing for contractors, as well as reaffirming that while homeowners are not required to be licensed to work on their own homes, they still are

required to obtain a building permit. The City Council approved the draft language before it, and the Planning Commission reviewed the drafts and recommended adoption of the changes.

QUESTION: Should the City Council approve these proposed ordinance changes?

7. RESOLUTION 2012-## ADOPTING ORDINANCE 2012-## ESTABLISHING NEW CITY CODE CHAPTER 618 REGARDING COMPLAINTS> PUBLIC HEARING, COUNCIL DELIBERATION AND CONSIDERATION OF ADOPTION, AND APPROVAL OF SUMMARY PUBLICATION IN THE CITY'S OFFICIAL NEWSPAPER: Presently section 615.040 (entitled ENFORCEMENT) establishes certain procedures for responding to complaints about alleged violations of chapter 615 relating to Exterior Storage. New Chapter 618 is intended to replace 615.040 and update the procedures for responding to complaints. The draft ordinance was referred to the Planning Commission for review, comment, and recommendation. The Planning Commission's comments were submitted to the Council for review at the March 13th meeting. Discussion at that meeting generated some discussion on which party should issue the formal "Notice of Violation" – city staff or the City Council. Subsequently, Council Members Harper and Sampair worked with the City Attorney to draft language authorizing city staff to issue notices of violation. The revised drafts (along with a draft enabling resolution) are included in the agenda packet as exhibits. In addition, a draft summary of the ordinance was provided by Harper, Sampair, and Sandstrom and is included for your review; some thought should be given to publish the ordinance in its entirety due to its relative brevity.

QUESTIONS: Should the City Council approve these proposed ordinance changes? Should the City Council authorize publication of a summary of the ordinance?

8. RESOLUTION 2012-## ADOPTING ORDINANCE 2012-## ESTABLISHING NEW CITY CODE CHAPTER 619 REGARDING PENALTIES AND ENFORCEMENT> PUBLIC HEARING AND COUNCIL DELIBERATION AND CONSIDERATION OF ADOPTION: This agenda item addresses enforcement options available to the City and describes the options available to the City for any code violation. The draft ordinance was referred to the Planning Commission for review, comment, and recommendation, and the Planning Commission recommended adoption. Mayor Mitchell provided a cover memo explaining the need for this new ordinance, that memo – along with the draft ordinance and enabling resolution – are included in the agenda packet as exhibits.

QUESTION: Should the City Council approve these proposed ordinance changes?

9. REVISIONS TO CITY CODE CHAPTERS 611 (PUBLIC WORKS RESERVE FUND), 611A (CAPITAL IMPROVEMENT FUND), AND ESTABLISHMENT OF NEW CITY CODE CHAPTER REGARDING PARK SPECIAL RESERVE FUND>COUNCIL REVIEW AND CONSIDERATION OF CALENDARING FOR PUBLIC HEARING AT THE MAY 8, 2012 COUNCIL MEETING: Council Member Harper is bringing these revisions to the Council's attention. Harper mentioned at the March 13th meeting that the reason for these proposed revisions is to eliminate the confusion between 611 and 611A and adopt them in a separate chapter – chapter 800. The Parks Special Reserve Fund establishes the basis for the use of fees dedicated to parks capital improvements (e. g. dock permit fees). For 611 (800), this clarifies the use of dollars transferred to the City from Washington County for Hall/Cedar improvements. The amendment to 611A (810) establishes parameters for the use of capital projects funds. Harper proposes creating a new 800 section of the City Code for all finance-related codes and is, therefore, proposing to recodify City Code Chapter 612 Public Improvements Financing and Assessment into the 800 series (a copy is not included in your packet since no changes to its language are being proposed. Harper is also recommending adding the adopted Fund Balance Policy to the codes in the new 800 series.

QUESTION: Are there any other changes the Council desires to make to these draft documents? Should the Council calendar these draft amendments/new ordinances for public hearing on May 8, 2012 – the date of the next regular Council meeting?

10. PARKS MAINTENANCE COSTS: Parks and Natural Resource Committee Chair John Lund wants to address the Council on issues relating to parks maintenance costs. As of the time of agenda packet distribution, John did not submit any exhibits for Council review. John will be at this meeting to respond to questions from the Council.

11. 2012 SEWER CAPITAL PROJECTS>DISCUSSION: City Engineer Kristie Elfering prepared a memo to the Council regarding the following three capital projects proposals involving the City's sanitary sewer system: (1) televising the remaining mains that have not yet been televised, (2) sealing the sanitary sewer manhole casting rings, and (3) replacing the pumps at the Birchwood Lane lift station. In addition, Elfering will be available to discuss whether the City wants her to get bids for general pothole repair.

**QUESTIONS: Should the Council authorize any or all of these sanitary sewer maintenance projects for 2012?
Should the Council authorize the City Engineer to secure bids for general pothole repair?**

12. COUNCIL REPORTS: Council Member Harper (who is also an interim City representative to the White Bear Lake Conservation District) requested time during this part of the meeting to discuss the low water levels on White Bear Lake and updating the City's capital improvement plan.

CITY OF BIRCHWOOD VILLAGE
REGULAR CITY COUNCIL MEETING
March 13, 2012

MINUTES

MEMBERS PRESENT: Mayor Alan Mitchell; Council Members Barb Carson, Jane Harper, Mark Peterson, and Tony Sampair

STAFF PRESENT: City Engineer Kristie Elfering, City Clerk Dale Powers, City Treasurer Cindie Reiter, and City Attorney Kevin Sandstrom

OTHERS PRESENT: Joel Hanson, Kaitlyn Howe, Charles Kaufmann, John Lund, and John McCormick

Mitchell called the regular meeting to order @ 7:00pm, and the Pledge of Allegiance was recited.

AGENDA APPROVAL: *Harper/Sampair unanimous to approve the agenda for the March 13, 2012 Regular Meeting, as amended to take Item # 1 (Approval of the Minutes of the February 14, 2012 Regular Meeting) off the Consent Calendar and placed immediately before Item # 5 (Proposed Warming House and Ice Rink Renovation Grant>Approval of Resolution 2012-## Agreeing To Act As The Legal Sponsor For The Project), and also to add two items: Contract with Saint Paul Regional Water Service under Item # 10 (Council Reports) and Acceptance of the 2011 Annual Financial Statement under Item # 10b*

COMMUNITY EVENTS AND ANNOUNCEMENTS: Mitchell noted that the Birchwood Dock Association meeting will be held on Saturday, March 31st @ 9:30am at the City Hall. The entire community is invited to attend. Harper announced that the Finance Committee will be meeting on Saturday, April 21st at the Village Hall. Mitchell stated that the Personnel Committee will be meeting on Monday, March 19th @10:30pm at the City Hall.

OPEN PUBLIC FORUM: Kaufmann addressed the Council and reiterated the concerns about the proposed warming house/ice rink improvement project that he stated at the February Council meeting.

APPROVAL OF MINUTES OF THE FEBRUARY 14, 2012 REGULAR MEETING: Mitchell noted that he wanted this item removed from the consent agenda, stating that in several places in the minutes the phrase "proposed warming house grant" should be re-stated as "proposed warming house (ice rink renovation project) grant". Carson recommends the following language: "ice rink renovation/warming house grant".

Carson/Peterson unanimous to approve the minutes of the February 14, 2012 Regular meeting, as amended at Line 32 to replace the phrase "warming house" with the phrase "ice rink renovation/warming house project", and at Line 111 to read "Warming House/Ice Rink Renovation Project Grant".

CONSENT CALENDAR: *Harper/Peterson unanimous to approve the following consent calendar items:*

- 47 1. *Acceptance of the Financial Report and Disbursements Register as prepared by the City*
48 *Treasurer and presented to the City Council on March 13, 2012 in the amount of \$25,567.24,*
49 *including Check #'s 26978-26983, 27010-27017, 27027-27044, and Electronic Funds Transfers*
50 *FED012012, MN012012, PERA021512, FED022012, MN022012, AND PERA022912.*
51 2. *Approval of Resolution 2012-06 Establishing the City's Precinct Boundary and Polling Location.*
52 3. *Approval of Resolution 2012-07 Approving the 2012 Fee Schedule.*

53
54 **PROPOSED WARMING HOUSE & ICE RINK RENOVATION PROJECT GRANT>APPROVAL OF RESOLUTION**
55 **2012-08 AGREEING TO ACT AS THE LEGAL SPONSOR FOR THE PROJECT:** Lund shared with the Council
56 the revised figures for the proposal. These revisions were generated by DNR's preliminary review of the
57 project and are as follows: (1) the proposed sidewalk is to be 5 feet wide, instead of 4 feet wide. This
58 increased the cost of the path from \$4900.00 to \$6325.00; (2) the size of the pleasure rink was changed
59 from 140' x 100' to 65' x 110'; (3) adjust the donated labor hours for skilled labor from \$12,900.00 to
60 \$12,400.00, and adjusted the donated labor hours for unskilled labor from \$1,100.00 to \$1,600.00; and
61 (4) remove the portable bathroom from the cost breakdown at the request of the DNR. Lund continued
62 by going over the overall costs of the project as follows: TOTAL COST>\$65,200.00; GRANT REQUEST>
63 \$32,600.00; LOCAL MATCH> \$32,600.00; DONATED LABOR>\$14,000.00; CITY FINANCIAL OBLIGATION>
64 \$18,600.00 (which may include private donations).

65
66 Harper asked whether the DNR asked to reduce the size of the pleasure rink. Lund responded that he
67 reduced the size of the pleasure rink in order to keep it out of the road right-of-way, not in response to a
68 request by DNR.

69
70 Mitchell asked about the proposed schedule calling for building a berm, placing plastic down, and
71 replacing the boards during 2012, and mentioned that the Council did not intend on budgeting any
72 expenditures for 2012; on the other hand, if this work isn't done this year the skating season will be lost.
73 Lund indicated that there is money in the 2012 Parks budget to cover the cost for this work (\$4,300,
74 including painting).

75
76 Lund also mentioned that according to the County's records, the location of the proposed warming
77 house encroaches into the setback area adjacent to Lake Avenue; Lund mentioned that he had talked to
78 Samantha Crosby, the City's contract planner, who advised that a variance from the 40-foot setback
79 requirement from the right-of-way line of Lake Avenue is required in order to place the warming house
80 as proposed.

81 Discussion was held among the Council on the timing and mechanics of the variance process.

82
83 Harper expressed a concern that the costs of the project seem to be creeping up with each meeting.
84 Lund responded that he has asked for revised estimates over the course of the last few months and the
85 costs have gone up. Harper noted that the Council needs to determine a comfort level with the amount
86 of financial obligation it intends to incur.

87
88 *Sampair/Carson unanimous to approve Resolution 2012-08 (Item 7 - Applicant's Resolution as*
89 *provided by DNR in the application packet).*

90
91 *Sampair/Carson unanimous to authorize the City Clerk to fill out the variance application for required*
92 *approvals on behalf of the City.*

93

94 *Harper/Peterson unanimous to state that the City will accept any private donations to help fund the*
95 *City's share of the cost of the project.*

96

97 **REVIEW OF QUOTES FOR PAINTING THE INTERIOR OF THE CITY HALL, WINDOW CLEANING, AND**

98 **REPAIR OF THE GROTTO AVENUE STEPS:** Carson reviewed with the Council quotes she received for
99 painting the interior of City Hall, cleaning the City Hall windows, and repairing the Grotto Avenue
100 walkway steps; and recommended to the Council that the bids be awarded to Suburban Window
101 Cleaning for cleaning the City Hall windows, Acclaim Painting for the painting of the interior of City Hall,
102 and JM Services for the repair and replacement of the Grotto Avenue steps.

103

104 *Carson/Harper unanimous to accept the bid of City & Suburban Window Cleaning for the cleaning of*
105 *the City Hall windows.*

106

107 *Carson/Sampair unanimous to accept the bid of Acclaim Painting for the painting of the interior of*
108 *City Hall.*

109

110 *Peterson/Carson unanimous to accept the bid of JM Services for the repair and replacement of the*
111 *Grotto Avenue steps, to authorize the City Attorney to draft a contract for the work, and to authorize*
112 *the Mayor to execute the contract on behalf of the City.*

113

114 **REVIEW OF DRAFT ORDINANCES RELATING TO INTERIM USE PERMITS, BUILDING CODE REVISIONS,**
115 **COMPLAINTS, AND ENFORCEMENT>RECEIPT OF COMMENTS FROM THE PLANNING COMMISSION AND**

116 **CALENDARING PUBLIC HEARINGS:** Mitchell stated that there are several draft ordinance revisions for
117 Council review: 203 and 205 pertaining to the Building Code; 301, 305, and 306 establishing interim use
118 permits; 618 pertaining to complaints; and 619 addressing penalties and enforcement. These drafts
119 have been reviewed by the Planning Commission and their comments are included in the Council
120 packet. In addition, City resident Bryan McGinnis provided comments and recommendations on the
121 proposed interim use ordinance. McGinnis recommends that interim use logs and home occupation logs
122 be established and maintained at City Hall. Mitchell noted that while he agrees with McGinnis' idea, he
123 doesn't think it's a good idea to put it in the ordinance.

124

125 **Mitchell** went over the Planning Commission's recommendations, as follows:

126

- 127 • For the revisions to Ordinance 203, the Commission recommends referencing all fees under
128 Ordinance 701 and deleting references to fees under Ordinance 203; conducting an annual
129 review of permit systems fees to align with the City of White Bear Lake; maintaining the current
130 plan review fee language in the ordinances with an exemption for minor work; publishing the
131 fee language with the resolution; and posting the fee language on the City's web site.
- 132 • No changes to the draft changes to Ordinance 205, 301, 306, and the draft ordinances 618 and
133 619.
- 134 • For the revisions to Ordinance 305, the Commission recommends correcting 305.170.1 to read
135 "Interim Use Permit" instead of "Conditional Use Permit"; and to add language to 305.170.2
136 providing just cause before inspection of premises is undertaken. Possible just cause for
137 inspection could include written complaint against the property owner or violation of
138 requirements and standards for home occupations under 305.160.

139

140 **Harper** recommends keeping the authority to appoint a building official in 203.030, and noted that
141 White Bear Lake has been appointed as the City's building official, and the City needs to maintain that

142 authority in case the relationship with White Bear Lake changes. **Harper** also asked what is the dollar
143 amount that triggers the need for a permit; **Powers** responded that the fee schedule establishes the
144 trigger at \$1.00.

145
146 As it relates to proposed Ordinance 618, **Harper** asked why the Planning Commission would be charged
147 with hearing appeals from notices of violation. **Mitchell** responded that the Planning Commission is
148 experienced with conducting fact-finding hearings as a part of their overall responsibilities relating to
149 conditional use permits and variances, and he didn't know who else to use. **Harper** also noted that the
150 draft says that staff can investigate the complaint but can't issue the notice of violation. **Powers** added
151 that 619.030 does not vest the staff with the ability to issue a notice of violation; staff can only
152 investigate the complaint and report back to the Council the results of his investigation. **Sandstrom**
153 noted that traditionally staff is vested with issuing the notice, and having the Council determine whether
154 a complaint rises to the level of a violation is unusual. **Sandstrom** continued by saying if the Council
155 made the initial determination that a violation exists and orders a notice of violation to be sent, and the
156 property owner asks for a hearing, and the City Council is the body conducting the hearing, in effect the
157 Council is ruling twice on the same issue. **Sandstrom** recommends vesting in staff the authority to issue
158 a notice of violation in order to expedite the process and also to avoid having the City Council rule on its
159 own ruling. **Mitchell** reiterated that he believes the City Council should be issuing the notice of violation,
160 not the staff. **Sampair** noted that other cities allow staff to issue notices of violation. **Harper** said that
161 she has an issue with the Planning Commission being the fact-finding body on appeals of notices of
162 violation. **Mitchell** recommended that Council Members Harper and Sampair come up with
163 amendments to 618 for review at the April public hearing. Harper and Sampair agreed to do that.

164
165 **Powers** alerted the Council to his misunderstanding that the statutory public hearing was to be held
166 during tonight's meeting, and stated that state law allows that if the Council announces at this meeting
167 that the public hearing will be rescheduled for April 10th that the City will not be required to republish
168 the notice. This was confirmed by City Attorney Sandstrom.

169
170 **Peterson/Harper unanimous to schedule public hearings for the draft ordinance revisions for the April**
171 **10th Council meeting, to reschedule the public hearing for the interim use permit for the April 10th**
172 **Council meeting, and to amend the draft language in the proposed 305.040, subd. 1 to read as follows:**
173 ***"The proposed use will not adversely impact implementation of, or be in conflict with, the City's***
174 ***Comprehensive Plan."***

175
176 **UTILITY BILLING ISSUES WITH THE CITY OF LITTLE CANADA:** **Powers** reviewed with the Council the
177 memo he prepared on this item, and stated that the City of Little Canada requested to amend the
178 memorandum of understanding between the two cities as it relates to the utility billing services
179 provided by Little Canada to the City. **Powers** noted that Little Canada informed the City that Little
180 Canada's cost to process the City's utility bills (exclusive of stuffing and mailing costs) comes to \$4.33
181 per account, while they are charging the City \$3.65 per account, and stated that Joel Hanson, Little
182 Canada city administrator, put together a proposal (included in the packet) that calls for an increase in
183 the per account billing rate from \$3.65 to \$5.20. **Powers** said that Hanson's memo also calls for the City
184 to resume stuffing and mailing of the quarterly utility bills and the newsletters provides cost estimates
185 from the vendors Little Canada uses for this service. **Powers** concluded his remarks by stating that
186 Hanson's memo indicates that Little Canada has lost \$5,433.01 in providing utility billing and newsletter
187 printing services to the City and poses to the City two alternatives to reimburse Little Canada for these
188 losses: making quarterly payments of 25% of the amount due (discounted as an incentive), or increase
189 the per account rate to \$6.25 until the amount due has been paid.

190

191 **Hanson** addressed the Council by stating that since Little Canada Finance Director Shelly Rueckert
192 resigned her position Little Canada has been reviewing the services provided to the City by Little Canada,
193 and noted that Rueckert provided many services to the City –such as picking up bills and dropping off
194 the utility bill financial statements – at no charge. **Hanson** also noted that it is not cost-effective for Little
195 Canada to continue printing four-color newsletter copy and stuffing utility bills and newsletters, and
196 shared with the Council the cost breakdown to provide those services. Finally, **Hanson** said that while
197 the City is not legally obligated to reimburse Little Canada for losses incurred to date on performing the
198 services included in the memorandum of understanding, it is something that Little Canada is requesting
199 that the City consider.

200

201 Council Members Peterson and Carson volunteered to work with the City Clerk to come up with
202 suggestions and recommendations on this issue and to report back to the Council on its findings.

203

204 **DRAFTING A PERSONNEL POLICY, CODE OF ETHICS, AND GRIEVANCE PROCEDURE:** **Mitchell** noted that
205 the by-laws of the Personnel Committee call for the Committee to develop personnel policies. The City
206 does not have a personnel policy, code of ethics, or grievance procedure, and thought it would be a
207 good idea for the City to research this matter and come up with drafts of these documents. **Mitchell**
208 stated that Jennifer Nodes, an attorney with Eckberg Lammers, has substantial experience in this area
209 and believes she would be a good resource for the Personnel Committee; **Mitchell** said that Nodes
210 indicated that she would be able to help the City in this regard; and could do this in the \$500.00 range
211 for cost. **Sampair** questioned why the City would pay for a service that it can get for free by the League
212 of Minnesota Cities. Council discussion was held on the scope of Nodes' services. **Mitchell**
213 recommended that the Personnel Committee invite Nodes to the March 19th meeting for an hour to go
214 over what she thinks the City needs. **Peterson** clarified that the Council is looking for clarity on what the
215 City needs and the scope of Nodes' services.

216

217 **COUNCIL REPORTS:**

218 **Harper** shared with the Council draft revisions to City Codes 611 (Public Works Reserve Fund) and 611A
219 (Capital Improvement Fund), and noted that the drafts are being distributed for informational purposes
220 only at this time for subsequent refinement at the April meeting and to schedule public hearings for the
221 May meeting. **Harper** noted that this also includes a new Chapter establishing a Park Special Revenue
222 Fund. **Harper** continued by stating that the code addressing the Public Works Reserve Fund is proposed
223 to be renumbered as City Code 800 and the code addressing the Capital Improvement Fund is proposed
224 to be renumbered as City Code 810. **Powers** noted that 618 is already proposed to be used for
225 Complaints and will need to be renumbered; **Harper** agreed, stating that the Park Special Revenue Fund
226 will need to be numbered in the 800 series.

227

228 **Harper** said the gist of the proposed revisions is to clean them up and eliminate the confusion between
229 611 and 611A, while the Parks Special Reserve Fund establishes the basis for the use of fees dedicated
230 to parks capital improvements (e. g. dock permit fees). For 611 (800), this clarifies the use of dollars
231 transferred to the City from Washington County for Hall/Cedar improvements. The amendment to 611A
232 (810) establishes outer parameters for the use of capital projects funds.

233

234 **Harper** also noted another amended ordinance that did not make it in the packet – 612 Public
235 Improvements Financing and Assessment. At this time, **Harper** recommends only renumbering that
236 ordinance to the appropriate 800 series number and not to tamper with the text of the ordinance.

237 **Harper** also requested that the City's Fund Balance Policy be renumbered.

238

239 **Mitchell** discussed the contract the City is entering into with St. Paul Regional Water Services to provide
240 the City with certified water operator services, and noted that there have been some bumps in
241 negotiating the contract, and asked **Sandstrom** to draft a cover letter noting the contract terms that
242 bother the City.

243

244 **Mitchell** acknowledged receipt of the City's Annual Financial Report from the City Treasurer. **Reiter**
245 went over the report with the Council. The Council requested the report be posted on the City's
246 website.

247

248 **Mitchell** also noted that for the last couple of months, the City Clerk has not prepared an executive
249 summary, and asked the Council their thoughts on the document. **Peterson** found the document useful;
250 **Sampair** doesn't miss it; **Harper** likes it if there isn't a cover memo with each agenda item. **Mitchell** finds
251 it helpful, but it doesn't need to be as elaborate as they have been.

252

253 **NEXT MEETING> APRIL 10, 2012: TOPICS:** **Mitchell** noted the public hearings and action on the interim
254 use, building code, complaints, and investigation ordinances; as well as further review on the fund
255 ordinances. **Elfering** said that if the agenda is light that she would like to start discussing sewer capital
256 projects for the year. **Harper** noted that in May there should be a report of the Finance Committee on
257 water utility fees.

258

259 **ADJOURN:** Without a formal motion, the Council meeting adjourned @ 9:50pm.

260

261

262

263

264

265

266

267 _____
Dale Powers

268 City Clerk

Birchwood Village Treasurer's Report

4-10-12

2

To: City Council

From: Cindie J Reiter, Treasurer

Financial Report

Attached are the CTAS reports:

The **DISBURSEMENTS REGISTER** is for those claims presented for approval and/or payment this eve. Disbursement Register includes check numbers or EFT identifier.

The **Interim Financial Report** shows the year to date totals for each revenue and expense of each Fund. The report is presented by ACCOUNT code. Fund 100 is the operating fund (General Fund) for which property taxes are levied, and also includes other revenues the city receives. In the disbursement section you will find a running total (YTD) and variance (remaining balance) of the budgeted amount for each category of expense.

The **Cash Balance Statement** is the beginning balances (same as: prior year-end). The beginning balances are all cash balances – which reside at US Bank (checking for operating funds & savings) and at Piper Jaffray (money market accounts for various fund reserves & savings)

Current Items of Interest-

- **City of LC check #27037 VOIDED**– as meter reading is now directly billed to the City of Birchwood Village. First Qtr payment re-issued to SI-Serco Check #27055
- Year End Financial Report – Cash Basis due to State Auditor's office by end of March 2012.
- Special assessment interest refunds* - Total approximately 220 checks totaling \$5,231 less those property owners whose taxes remain unpaid for 2011. Process has begun for check issuance with a letter explain why refund is being issued.
- See added memo concerning possible use of 4M Fund for city's banking.

Water Fund & Sewer Fund – Continue review with Shelly R for fee structure, Finance Committee meeting scheduled for April 18, 2012 5:30 – 6:30 will continue this month.

Please call/email with any questions.

Cindie J. Reiter,

Birchwood City Treasurer

Note: ****Special Assessment – Pay 2011 REFUND IN 2012**

Resolution of over calculation of interest for Pay 2011 is to refund all PAID debt service special assessment for Pay 2011. This refund will be sent to property owners after the county provides report of those properties paid for 2011. ***The report should be available in the first quarter 2012 – refunds to be issued shortly after.***

As of 12/31/2012

General Fund	Budget	Actual	Variance
Receipts:			
General Property Taxes	\$325,000.00	\$409.80	(\$324,590.20)
Total Acct 310	\$325,000.00	\$409.80	(\$324,590.20)
Building Permits	\$8,500.00	\$2,808.89	(\$5,691.11)
Dog Licenses	\$1,000.00	\$555.00	(\$445.00)
Total Acct 322	\$9,500.00	\$3,363.89	(\$6,136.11)
State Grants and Aids	\$238.00	\$0.00	(\$238.00)
Total Acct 334	\$238.00	\$0.00	(\$238.00)
Recycle Grant	\$1,650.00	\$0.00	(\$1,650.00)
Cable Comm. Grant	\$7,000.00	\$206.50	(\$6,793.50)
Total Acct 336	\$8,650.00	\$206.50	(\$8,443.50)
City Hall and Garage Rent	\$500.00	\$123.50	(\$376.50)
Total Acct 341	\$500.00	\$123.50	(\$376.50)
Fines	\$1,000.00	\$269.98	(\$730.02)
Total Acct 351	\$1,000.00	\$269.98	(\$730.02)
Interest Earnings	\$1,000.00	\$3.09	(\$996.91)
Contrib. and Donations-Private	\$400.00	\$670.00	\$270.00
Total Acct 362	\$1,400.00	\$673.09	(\$726.91)
Total Revenues	\$346,288.00	\$5,046.76	(\$341,241.24)
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Publishing	\$2,175.00	\$658.85	\$1,516.15
Total Acct 411	\$2,175.00	\$658.85	\$1,516.15
City Council	\$4,200.00	\$319.20	\$3,880.80
Total Acct 413	\$4,200.00	\$319.20	\$3,880.80
Clerk - Treasurer	\$56,000.00	\$16,461.70	\$39,538.30
Elections	\$4,400.00	\$470.00	\$3,930.00
Office Operations/Supplies	\$4,275.00	\$476.49	\$3,798.51
Postage/Postal Permits	\$800.00	\$132.00	\$668.00
Total Acct 414	\$65,475.00	\$17,540.19	\$47,934.81
Financial Administration	\$0.00	\$55.90	(\$55.90)
Assessing	\$5,325.00	\$0.00	\$5,325.00
Total Acct 415	\$5,325.00	\$55.90	\$5,269.10
Legal Services	\$8,000.00	\$1,869.53	\$6,130.47
Engineer Service	\$6,000.00	\$680.93	\$5,319.07
Total Acct 416	\$14,000.00	\$2,550.46	\$11,449.54
Per Diem	\$1,560.00	\$0.00	\$1,560.00

City of Birchwood Village Interim Financial Report by Account Number (YTD)

04/05/2012

Total Acct 418	\$1,560.00	\$0.00	\$1,560.00
City Training and Development	\$5,000.00	\$230.00	\$4,770.00
City Hall-Gov't Buildings	\$9,300.00	\$1,641.02	\$7,658.98
City Insurance	\$10,324.00	\$0.00	\$10,324.00
Cable Eqpmt and Service	\$1,200.00	\$154.00	\$1,046.00
Newsletter	\$400.00	\$0.00	\$400.00
Total Acct 419	\$26,224.00	\$2,025.02	\$24,198.98
Police	\$90,935.00	\$29,925.32	\$61,009.68
Total Acct 421	\$90,935.00	\$29,925.32	\$61,009.68
Fire	\$20,500.00	\$7,105.68	\$13,394.32
Total Acct 422	\$20,500.00	\$7,105.68	\$13,394.32
Building Inspection	\$10,100.00	\$855.00	\$9,245.00
Total Acct 424	\$10,100.00	\$855.00	\$9,245.00
Other Protection	\$68.00	\$93.88	(\$25.88)
Animal Control	\$925.00	\$882.00	\$43.00
Total Acct 428	\$993.00	\$975.88	\$17.12
Streets and Road Mntnc	\$7,000.00	\$45.00	\$6,955.00
Street Sweeping	\$4,000.00	\$0.00	\$4,000.00
Ice and Snow Removal	\$17,000.00	\$4,462.08	\$12,537.92
Tree Care/Inspection	\$800.00	\$0.00	\$800.00
Tree Removal	\$2,550.00	\$0.00	\$2,550.00
Drainage - Structure Care	\$1,400.00	\$0.00	\$1,400.00
Street Signs	\$3,000.00	\$0.00	\$3,000.00
Street Lights	\$15,000.00	\$3,767.91	\$11,232.09
Wtr/Swr Emergency	\$1,000.00	\$0.00	\$1,000.00
Survey - Public Property	\$2,500.00	\$0.00	\$2,500.00
Total Acct 431	\$54,250.00	\$8,274.99	\$45,975.01
Sanitation - Recycling	\$12,700.00	\$2,810.70	\$9,889.30
Total Acct 441	\$12,700.00	\$2,810.70	\$9,889.30
Lawn Care/Mntnc	\$6,000.00	\$0.00	\$6,000.00
Total Acct 450	\$6,000.00	\$0.00	\$6,000.00
Recreation	\$500.00	\$0.00	\$500.00
Total Acct 451	\$500.00	\$0.00	\$500.00
Parks	\$13,000.00	\$4,515.11	\$8,484.89
Total Acct 452	\$13,000.00	\$4,515.11	\$8,484.89
CONSERVATION - NATURAL RESOURC	\$5,700.00	\$0.00	\$5,700.00
Total Acct 461	\$5,700.00	\$0.00	\$5,700.00
Unallocated Expenditures	\$8,251.00	\$0.00	\$8,251.00
Total Acct 492	\$8,251.00	\$0.00	\$8,251.00
Total Disbursements	\$341,888.00	\$77,612.30	\$264,275.70
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$513,015.66	

Cash Balance as of 12/31/2012

\$440,450.12

Fund Name: All Funds
 Date Range: 03/14/2012 to 04/10/2012

<u>Date</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check #</u>	<u>Total</u>	<u>Account #</u>	<u>Amount</u>
03/14/2012	Ken Johnson	Snow/Ice Removal & Wtr mainbreak sand/WGT signs	27045	\$1,565.00	100-43100-305	\$45.00
					100-43125-305	\$1,340.00
					601-43185-305	\$90.00
					601-43185-305	\$90.00
03/14/2012	Ronnan, Kenny	Videographer - Service Feb 2012 (4.0)	27046	\$56.00	100-41950-305	\$56.00
03/14/2012	City of White Bear Lake Public Work	Lift Stn ck/Mo records fee	27047	\$826.75	605-43190-305	\$826.75
03/14/2012	Xcel Energy	Street Lightsc - Mar 2012	27048	\$1,257.22	100-43160-381	\$1,257.22
03/14/2012	Eckberg, Lammers, Briggs, Wolff	Legal Service -Feb 2012	27049	\$473.66	100-41600-300	\$351.26
					601-41600-300	\$122.40
03/14/2012	Qwest/CenturyLink	Phone/Fax lines Mar 2012	27050	\$122.24	100-41940-321	\$122.24
03/14/2012	Little Canada, City of	Utility Billing Fees Qtr 1 2012	27051	\$1,828.27	601-43180-305	\$914.13
					605-43190-305	\$914.14
03/15/2012	Payroll Period Ending 02/29/2012		27018	\$111.69	100-45200-100	\$111.69
03/15/2012	Payroll Period Ending 02/29/2012		27019	\$37.74	100-45200-100	\$37.74
03/15/2012	Payroll Period Ending 02/29/2012		27020	\$1,047.94	100-41400-100	\$1,047.94
03/15/2012	Payroll Period Ending 02/29/2012		27021	\$460.35	100-41400-100	\$460.35
03/28/2012	PERA	Staff Retirement PE 2/29/12	PERA031512	\$274.55	100-41400-120	\$147.45
					100-41400-121	\$127.10
03/30/2012	Payroll Period Ending 03/15/2012		27052	\$1,047.94	100-41400-100	\$1,047.94
03/30/2012	Payroll Period Ending 03/15/2012		27053	\$558.32	100-41400-100	\$558.32
04/03/2012	IRS - US Treasury	FEDTaxes March /2012	FED032012	\$985.29	100-41400-110	\$401.33
					100-41400-160	\$60.91
					100-41400-162	\$260.45
					100-41400-164	\$60.91
					100-41400-166	\$176.43
					100-45200-110	\$3.44
					100-45200-160	\$2.38
					100-45200-162	\$10.17
					100-45200-164	\$2.38
					100-45200-166	\$6.89
04/03/2012	MN Department of Revenue	State W/H March 2012	MN032012	\$186.79	100-41400-115	\$186.79

<u>Date</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check #</u>	<u>Total</u>	<u>Account #</u>	<u>Amount</u>
04/03/2012	PERA	Staff Retirement PE3/15/12	PERA033112	\$292.50	100-41400-120	\$157.08
					100-41400-121	\$135.42
04/04/2012	Xcel Energy	Lift Stn - Apr 2012	LIFT042012	\$407.50	605-43190-380	\$407.50
04/05/2012	Payroll Period Ending 03/31/2012		27054	\$1,047.94	100-41400-100	\$1,047.94
04/09/2012	SL - serco	Meter Readings - Qtr 1 2012	27055	\$281.00	601-43180-305	\$140.50
					605-43190-305	\$140.50
04/09/2012	City of White Bear Lake Fire	Fire Srvc -Apr 2012	27056	\$1,776.42	100-42200-305	\$1,776.42
04/09/2012	City of White Bear Lake Police	Law Enforcement - Apr 2012	27057	\$7,481.33	100-42100-305	\$7,481.33
04/09/2012	TSE, INC	City Hall Janitorial - 2/28/2012	27058	\$19.00	100-41940-305	\$19.00
04/09/2012	City of White Bear Lake	Animal control 2012	27059	\$882.00	100-42810-305	\$882.00
04/09/2012	League of MN Cities	LC Safety Workshop april 2012	27060	\$20.00	100-41920-433	\$20.00
04/09/2012	TA Schifsky & Sons, INC	Street Mntnc - added asphalt for break	27061	\$18.63	601-43185-220	\$18.63
04/09/2012	Xcel Energy	Ice rink/warm house - Mar 2012	27062	\$73.51	100-45200-381	\$73.51
04/09/2012	Xcel Energy	City hall - Gas Elec - Mar 2012	27063	\$248.77	100-41940-380	\$248.77
04/09/2012	Menards - Maplewood	City hall - lights	27064	\$27.28	100-41940-220	\$27.28
04/09/2012	Press Publications	Code 301 Amendment 2012 (paid only bal due)	27065	\$10.00	100-41130-351	\$10.00
04/09/2012	Metropolitan Council Env. Service	Wastewater Service May 2012	27066	\$3,313.35	605-43190-217	\$3,313.35
04/09/2012	Press Publications	Ordinance 2012-01 (paid only bal due)	27067	\$25.37	100-41130-351	\$25.37
04/09/2012	S&T Office Supplies	Printer Cartridges/Paper	27068	\$139.20	100-41420-200	\$139.20
04/09/2012	S&T Office Supplies	lg envelopes	27069	\$17.89	100-41420-200	\$17.89
04/09/2012	TSE, INC	City Hall Janitorial - 3/13/2012	27070	\$19.00	100-41940-305	\$19.00
04/09/2012	Elfering & Associates	Eng Srvc- Mar 2012	27071	\$198.00	601-41650-300	\$198.00
04/09/2012	Washington County	CODE REd 102 minutes 3/15	27072	\$25.50	100-42800-430	\$25.50
04/09/2012	Gopher State One Call	Locates March 2012 (14 email & voice)	27073	\$26.30	601-42805-305	\$13.15
					605-42805-305	\$13.15
04/09/2012	Ronnan, Kenny	Videographer - Service Mar 2012 (3.5)	27074	\$49.00	100-41950-305	\$49.00
04/09/2012	Acclaim Painting	Painting - Interior City Hall	27075	\$940.00	402-41940-300	\$940.00

Total For Period	\$28,179.24
Total Year To Date	\$114,350.59

City of Birchwood Village Financial Report by Account Number (YTD)

04/05/2012

As of 12/31/2012

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Dock/Lift Permit Fee	\$0.00	\$200.00	\$200.00
Total Acct 322	\$0.00	\$200.00	\$200.00
Total Revenues	\$0.00	\$200.00	\$200.00
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Parks	\$5,000.00	\$0.00	\$5,000.00
Total Acct 452	\$5,000.00	\$0.00	\$5,000.00
Total Disbursements	\$5,000.00	\$0.00	\$5,000.00
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$11,481.67	
Cash Balance as of 12/31/2012		\$11,681.67	

City of Birchwood Village Financial Report by Account Number (YTD)

04/05/2012

As of 12/31/2012

Sewer 2004 Bonds	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	\$0.00	\$0.00	\$0.00
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Bond Payment	\$0.00	\$1,884.00	(\$1,884.00)
Total Acct 471	\$0.00	\$1,884.00	(\$1,884.00)
Total Disbursements	\$0.00	\$1,884.00	(\$1,884.00)
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$0.00	
Cash Balance as of 12/31/2012		(\$1,884.00)	

As of 12/31/2012

Birchwood In Re-hab Bond	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	\$0.00	\$0.00	\$0.00
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Total Disbursements	\$0.00	\$0.00	\$0.00
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$0.00	
Cash Balance as of 12/31/2012		\$0.00	

As of 12/31/2012

Sewer Re-hab 2008 Debt	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Sewer Re-hab A&B	\$0.00	\$241.82	\$241.82
Total Acct 361	\$0.00	\$241.82	\$241.82
Total Revenues	\$0.00	\$241.82	\$241.82
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Total Disbursements	\$0.00	\$0.00	\$0.00
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$0.00	
Cash Balance as of 12/31/2012		\$241.82	

City of Birchwood Village Financial Report by Account Number (YTD)

04/05/2012

As of 12/31/2012

Cap Project - PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	\$0.00	\$0.00	\$0.00
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Total Disbursements	\$0.00	\$0.00	\$0.00
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$41,571.00	
Cash Balance as of 12/31/2012		\$41,571.00	

City of Birchwood Village ~~agerim~~ **Financial Report by Account Number (YTD)**

04/05/2012

As of 12/31/2012

Capital Projects	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	\$0.00	\$0.00	\$0.00
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
City Hall-Gov't Buildings	\$15,000.00	\$940.00	\$14,060.00
Total Acct 419	\$15,000.00	\$940.00	\$14,060.00
Total Disbursements	\$15,000.00	\$940.00	\$14,060.00
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$59,527.99	
Cash Balance as of 12/31/2012		\$58,587.99	

As of 12/31/2012

Cap Proj - Catchbasin	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Total Revenues	\$0.00	\$0.00	\$0.00
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Total Disbursements	\$0.00	\$0.00	\$0.00
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$0.00	
Cash Balance as of 12/31/2012		\$0.00	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

04/05/2012

As of 12/31/2012

Water Enterprise Fund

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Water Fee	\$0.00	\$9,177.89	\$9,177.89
Penalty - Late Water/Sewer	\$0.00	\$439.71	\$439.71
State and Misc fees	\$0.00	\$497.74	\$497.74
Total Acct 341	\$0.00	\$10,115.34	\$10,115.34
DELQ - Water-Sewer fees	\$0.00	\$199.50	\$199.50
Total Acct 361	\$0.00	\$199.50	\$199.50
Interest Earnings	\$0.00	\$0.27	\$0.27
Total Acct 362	\$0.00	\$0.27	\$0.27
Total Revenues	\$0.00	\$10,315.11	\$10,315.11
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Legal Services	\$0.00	\$248.90	(\$248.90)
Engineer Service	\$0.00	\$1,039.50	(\$1,039.50)
Total Acct 416	\$0.00	\$1,288.40	(\$1,288.40)
Utility Locates	\$0.00	\$24.13	(\$24.13)
Total Acct 428	\$0.00	\$24.13	(\$24.13)
Water Utility	\$27,000.00	\$12,981.71	\$14,018.29
Wtr/Swr Emergency	\$0.00	\$1,231.82	(\$1,231.82)
Total Acct 431	\$27,000.00	\$14,213.53	\$12,786.47
Total Disbursements	\$27,000.00	\$15,526.06	\$11,473.94
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$35,730.61	
Cash Balance as of 12/31/2012		\$30,519.66	

City of Birchwood Village Financial Report by Account Number (YTD)

04/05/2012

As of 12/31/2012

Sewer Enterprise Fund

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Sewer Fee	\$0.00	\$18,664.81	\$18,664.81
Total Acct 341	\$0.00	\$18,664.81	\$18,664.81
DELQ - Water-Sewer fees	\$0.00	\$199.50	\$199.50
Total Acct 361	\$0.00	\$199.50	\$199.50
Interest Earnings	\$0.00	\$0.86	\$0.86
Total Acct 362	\$0.00	\$0.86	\$0.86
Total Revenues	\$0.00	\$18,865.17	\$18,865.17
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Utility Locates	\$0.00	\$24.12	(\$24.12)
Total Acct 428	\$0.00	\$24.12	(\$24.12)
Drainage - Structure Care	\$58,200.00	\$0.00	\$58,200.00
Wtr/Swr Emergency	\$0.00	\$177.00	(\$177.00)
Sewer Utility	\$0.00	\$18,187.11	(\$18,187.11)
Total Acct 431	\$58,200.00	\$18,364.11	\$39,835.89
Total Disbursements	\$58,200.00	\$18,388.23	\$39,811.77
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
Beginning Cash Balance		\$174,704.05	
Cash Balance as of 12/31/2012		\$175,180.99	

Fund Name: All Funds
Date Range: 03/14/2012 to 04/10/2012

<u>Date</u>	<u>Remitter</u>	<u>Description</u>	<u>Receipt #</u>	<u>Total</u>	<u>Account #</u>	<u>Amount</u>
03/16/2012	Residents - via LC	Utility billing - LC JE#13	707	\$5,024.03	601-34110	\$1,503.22
					601-34160	\$10.48
					601-34170	\$103.43
					605-34190	\$3,406.90
03/22/2012	Velin, John	Garage Rental fee	702	\$21.00	100-34101	\$21.00
03/22/2012	H2 Development	Bldg permit #WB054329	703	\$113.75	100-32210	\$113.75
03/22/2012	Pair RE (Sampair)	Dog License	704	\$10.00	100-32240	\$10.00
03/22/2012	DEAL Mntnc	Bldg permit #WB054382	705	\$93.50	100-32210	\$93.50
03/22/2012	Werra, Danny	Bldg Permit #WB054430	706	\$57.85	100-32210	\$57.85
03/27/2012	Resdients - via LC	Utility Billing -- LC JE#21	708	\$2,524.76	601-34110	\$770.45
					601-34160	\$14.52
					601-34170	\$49.29
					605-34190	\$1,690.50
03/30/2012	Residents - via LC	Utility Billing - LC JE#36	709	\$3,494.20	601-34110	\$1,069.80
					601-34160	\$83.62
					601-34170	\$60.94
					605-34190	\$2,279.84
04/03/2012	Velin, John	Garage Rent - April	710	\$21.00	100-34101	\$21.00
04/03/2012	Simpson, Greg	Building Permit WB#054438	711	\$322.25	100-32210	\$322.25
Total For Period				\$11,682.34		
Total Year To Date				\$34,668.86		

Birchwood Village

4-4-12

To: City Council

From: Cindie J Reiter, Treasurer

RE: US Bank Account Re-cap

**Request to move cash funds (checking and savings) to
Minnesota Mutual Money Market (4M) Fund**

Please consider this a proposal to transfer the city's US Bank accounts, both savings and checking to the 4M Fund.

Physically the city's paper deposits would still be made at the US Bank (any local relationship remains). Also, US Bank has Government Banking representatives. I have a working relationship with our representative for approximately 12 years.

Electronic deposits made by MN Management & Budget (fines, PERA Aid, etc) remain the same, as well as, electronic payments made through vendors to US Bank would stay the same (PERA, US Treasury, MN Dept of Revenue, UIMN, Deluxe, Xcel – Lift Stn).

ACH & EFT for debt service payments and payroll, as of this date (4/4) **WAITING FOR US Bank/4M info on process and *if any* fees.** Current account number and supply of US Bank checks would continue to be used. On a daily basis the funds at US Bank would be swept out and into the 4M Fund. This activity is known as Zero Balance Activity (ZBA). US Bank has this partnered relationship with the 4M Fund – a product established by LMC. The sweep will earn 2 basis points on city's dollars at 4M Fund. PLUS 4M will pay the cost of the city's checks (\$495 in 2011).

Presently, the **US Bank Accounts** are for:

Checking (Operations for all accounting funds) Statement Balance 2/29/2012 \$195,126

Savings; Sewer \$72,735 Water \$6,716 and Revenue Sharing Parks DE & Roads \$7,776

(March stmts to arrive any day)

ALL disbursements are made from the checking account, with the accounting for the disbursement(s) done by Fund & accounting code in CTAS. Example: Monthly water purchase is a Water Fund expense payment – but is made from the city's checking account (coded in CTAS as Water Fund 601 expense). No monetary transfer is done from the local US Bank water savings account. Similarly the water fees paid by residents are deposited at US Bank in to checking (not water saving account) and receipts are coded to Water Fund 601 in CTAS.

The city also has dollars in **Piper Jaffray's money market** product. Three accounts for (mainly) General Fund dollars \$364,123, Water \$31,297 and Sewer Fund \$101,458 dollars. *However at this time the roll to 4M Fund is being requested for US Bank accounts only.*

In speaking with the 4M Fund representative he commented "this is a No-Brainer for the city". The city will pay less in fees (one example: free checks) and earn interest (albeit low at this time). In my past use of the 4M Fund product, it was very useful to transfer between funds if/when needed, which means the bulk of the city's dollars can be earning (*more*) interest in the 4M Fund Plus savings and transferred out as needed to fund the checking disbursements. Further it can be accessed daily.

4M Fund brief statements of information are attached, along with the (copy of) resolution needed to move forward in approving the city's use of 4M Fund. This can be considered next month after the Finance Committee meets 4/18/2012 or this evening if desired.

Please call/email with any questions.

Cindie J Reiter,

Birchwood City Treasurer

4M Fund

The Minnesota Municipal Money Market Fund (the 4M Fund) is a customized cash management and investment program for Minnesota public funds.

Sponsored and governed by the League of Minnesota Cities, the 4M Fund is a unique investment alternative designed to address the daily and long-term investment needs of Minnesota cities and other municipal entities.

Managed in accordance with Minnesota Statutes and customized specifically for public entities, the 4M Fund provides safety, daily liquidity, and highly competitive yields.

The 4M Fund also provides a wide range of fixed term investments through our Fixed Rate Program, as well as **term series investment pools** that seek higher yields for short-term investments.

The 4M Fund currently offers professional investment management through two funds: the Liquid Asset Fund and the PLUS Fund. Both offer a competitive money market rate, with the Liquid Asset Fund providing additional cash management services like check writing. The 4M Fund also provides a wide range of fixed-term investments through RBC Dain Rauscher.

Benefits and Features

- Customized accounting
- Direct wire of state aid
- Full online access, including transactions and reporting
- Multiple transaction and reporting options
- Rates quoted net of all expenses
- Free checking for most cities, including check printing
- No minimum balances
- Unlimited sub-accounts
- Wide range of fixed rate investment options
- Dedicated customer service team

Administration

The 4M Fund is jointly administered by three League Business Partners:

- RBC Dain Rauscher (Platinum Business Partner)
- PMA Financial Network (Gold Business Partner)
- RBC Global Asset Management (Gold Business Partner)

Learn more at www.4Mfund.com



SAFETY. SERVICE. PERFORMANCE.

[Home](#)[Join the Fund](#)[About The 4M Fund](#)**[Why 4M?](#)**[Contacts](#)[The 4M Fund Team](#)[Online Access Information](#)[4M Fund Forms](#)[MN Investment Guidelines](#)**Search** **Why 4M?****Safety. Service. Performance.**

Safety. Service. Performance. These are the three guiding principles of the 4M Fund program and these are the reasons why the 4M Fund is a smart option for Minnesota public entities.

On Safety...

As an allowable investment under Minnesota Statutes, the 4M Fund is comprised of top quality, rated investments. In addition to using only top rated securities, our nationally recognized investment team employs an additional credit review process that can enhance the safety of important public dollars.

On Performance...

As a pooled asset fund, the 4M Fund seeks to maintain a competitive yield through large scale, cooperative purchasing of investments specifically for Minnesota cities, commissions, and city related public organizations. With budgets strained, Mayors, City Council Members, and staff are looking for ways to enhance investment yields. Using a pooled asset fund, and with exemplary investment management such as the 4M Fund, your investments have a unique opportunity. The cooperative catch words might be new, but the philosophy is time tested for success.

On Service...

Governed by the League of Minnesota Cities Board of Directors, the 4M Fund program is customized to meet the needs of Minnesota cities. Whether it is the online access system, the direct wiring of State Aid, or our readily available finance and customer service team, the 4M Fund was designed by cities and for cities. Even in our changing environment, the 4M Fund is constantly changing to meet the needs of today's busy finance officials. This is the level of service our Board expects and our communities deserve.

4M Fund Features At-A-Glance

- Governed by the League of MN Cities Board of Directors
- Full online access - including transactions and reporting
- Multiple transaction and reporting options
- Rates quoted net of all expenses
- Direct wire of State Aid
- Free checking for most cities - including check printing
- No minimum balances
- Unlimited sub-accounts
- Wide range of fixed rate investment options
- Dedicated customer service team

Feel free to click on the link below for information on how to become a member of the 4M Fund...

[Join the Fund](#)

The 4M Funds seek to maintain a net asset value of \$1.00 per share. However, an investment in either Fund is neither insured nor guaranteed by the U.S. government and there is no assurance that the Funds will be able to maintain a stable net asset value of \$1.00 per share.

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**XFINITY Connect**

bwclerk@comcast.net

[± Font Size ±](#)

parks and natural resource committee

From : Sara Nephew <snephew@mcad.edu>

Thu, Mar 22, 2012 09:07 PM

Subject : parks and natural resource committee**To :** bwclerk@comcast.net

Dale,

I may be interested in joining the parks committee if there is still a vacancy. I see it meets on the 4th Monday of the month. What time?

Thank you,
Sara Nephew
20 Birchwood Avenue

--

XFINITY Connect

bwclerk@comcast.net

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Parks and Natural Resource Committee

From : kparadise@comcast.net

Tue, Mar 27, 2012 06:11 PM

Subject : Parks and Natural Resource Committee**To :** bwclerk@comcast.net**Cc :** Marc Paradise <mparadise@team-spine.com>

Good Afternoon Dale,

My name is Kelly Paradise and I recently purchased my mother's home (Patti Brooks - 180 Birchwood Ave). I am interesting in serving on the Parks and Natural Resource Committee. I noticed there are currently two vacancies.

I did attend most of the meeting last night and I would love to help with all the great projects the City of Birchwood Village has to offer. I have three young kids who attend schools in Mahtomedi. I have a daughter who plays tennis at a national level and is excited that the tennis courts are in our backyard! I have twin boys who play hockey year -round, so the outdoor rink is important to us. This area truly fits our lifestyle and we want to preserve that feeling for all families.

Pls let me know what I need to become a committee member.

Best,

Kelly Paradise
651-206-4039

**EXPLANATION OF APRIL 2012 AMENDMENTS TO
PERSONNEL COMMITTEE BYLAWS**

The bylaws for the Personnel Committee were first adopted in January 2011 and amended in February 2012. The bylaws need to be amended again, however, to properly reflect that meetings of the Personnel Committee must be open to the public. The Minnesota Open Meeting Law, Minnesota Statutes § 13D.01, provides that the Open Meeting Law applies to all committees of a city council. Thus, meetings of the Personnel Committee, consisting of the mayor and one council member, must be open to the public.

The Open Meeting Law provides a few instances in which a city council or a committee of a council can close a meeting to discuss certain issues, such as litigation or nonpublic data. If such a situation should arise, the Personnel Committee could follow the applicable procedures to close one of its meetings, including announcing that the meeting will be closed and describing the reasons justifying closing the meeting. In nearly all instances, however, meetings of the Personnel Committee must be and will be open to the public.

Accordingly, paragraph IV (Committee Meetings) of the Personnel Committee bylaws is proposed to be amended to clarify that meetings of the committee will be open to the public. As part of conducting an open meeting, notice must be given to the public that a meeting of the committee is scheduled. The amended language provides that notice will be given by posting notice on the City's webpage and by posting a written notice on the community bulletin board outside city hall. Posting written notice on the bulletin board is what is done for the monthly council meetings under Rules of Procedure section 2.10(a). However, because the Personnel Committee does not hold regular meetings, like the city council does, it is appropriate to also require that notice of committee meetings be posted on the city webpage. In addition, while the proposed bylaws don't specifically provide it, the practice has been to announce upcoming Personnel Committee meetings at the prior city council meeting if there is time to do so.

Finally, while the bylaw language requires that the notice of a committee meeting identify the topics to be discussed at the meeting, there is no requirement to have a formal agenda of the meeting.

The proposed amendment to the bylaws is set forth below:

I. COMMITTEE MEETINGS

Either member of the Personnel Committee can call a meeting of the committee. Notice of all committee meetings shall be given at least three days in advance by posting on the City's webpage and by posting a notice on the bulletin board outside city hall. The notice shall identify the topics to be discussed at the meeting. All meetings of the Personnel Committee shall be open to the public unless the committee is permitted to close the meeting under the Open Meeting Law. The committee shall describe the reason for closing any meeting to the public in the notice announcing the meeting. ~~Since only two members of the Council comprise the Personnel Committee, the committee may meet in closed session without notice of such meetings.~~

PERSONNEL COMMITTEE

BYLAWS

I. NAME OF THE COMMITTEE

The name of the committee is Personnel Committee.

II. PURPOSE OF THE COMMITTEE

The purpose of the Personnel Committee shall be to work with city staff on administrative and personnel matters, including performance reviews, time sheets, employment agreement issues, and other human resource matters and other matters as assigned by the City Council.

III. COMMITTEE MEMBERSHIP

- A. Members.** The committee shall consist of two members – the mayor and a City Council member elected by the entire Council.
- B. Terms.** The mayor shall serve a two-year term beginning with the first meeting of the Council in January following an election year. The other Council member shall serve a one year term beginning with the first meeting in January. A Council member may serve more than one term.
- C. Resignation.** The City Council member may resign from the committee by notifying the mayor or the deputy mayor in writing of the intent to resign. The resignation shall be effective upon receipt of the written notification, unless the member identifies a later date.
- D. Vacancy.** In the event the mayor shall resign or a vacancy in the office of mayor is created, the deputy mayor shall serve in lieu of the mayor. If the deputy mayor is already on the committee, or another member shall resign or vacancy created, the City Council, including the member resigning from the committee, shall elect another City Council member to fill a vacancy. In the event of a 2-2 vote among four council members, the mayor shall select the Council member to serve, or if the vacancy is created in the mayoral position, the deputy mayor shall select the new member. The new member shall serve the remainder of the term.

IV. COMMITTEE MEETINGS

Either member of the Personnel Committee can call a meeting of the committee. Notice of all committee meetings shall be given at least three days in advance by posting on the City's webpage and by posting a notice on the bulletin board outside city hall. The notice shall identify the topics to be discussed at the meeting. All meetings of the Personnel Committee shall be open to the public unless the committee is permitted to close the meeting under the Open Meeting Law. The committee shall describe the reason for closing any meeting to the public in the notice announcing the meeting. Since only two members of the Council comprise the Personnel Committee, the committee may meet in closed session without notice of such meetings.

V. COMMITTEE RESPONSIBILITIES

The Committee shall undertake the following responsibilities:

- Develop for City Council consideration personnel policies addressing hiring practices, grievance and discipline processes, benefits, work hours, and other personnel matters; review existing policies periodically.
- Provide staff with guidance establishing work priorities and implementing City Council decisions.
- Conduct performance reviews and recommend compensation adjustments to the City Council.
- Conduct exit interviews when a staff member leaves city employment.
- Recruit and screen candidates and recommend new hires to the City Council whenever a staff vacancy shall occur.
- Draft employment agreements; review as part of performance reviews.
- Perform such other personnel matters as assigned by the City Council.

VI. COMMITTEE AUTHORITY

The committee shall have no authority to bind the city but shall bring all decisions to the City Council for decision. The committee may recommend certain action to the Council.

VII. COMMITTEE CONTINUATION

The committee shall continue in existence until terminated by action of the Council.

VIII. COMPENSATION

Members of the Personnel Committee shall receive no compensation for their service on the committee.

IX. AMENDMENT OF BYLAWS

These bylaws may be amended at any time by action of the City Council.

Adopted this _____ day of April, 2012

Alan Mitchell
Mayor

Attest

Dale Powers
City Clerk

EXPLANATION OF INTERIM USE PERMIT ORDINANCES

CHAPTERS 301, 305, and 306

I. Introduction

The Birchwood City Code provides for the issuance of Conditional Use Permits. Section 301.070 and chapter 306. The Code recognizes six categories of projects for which a Conditional Use Permit may be issued. These include two types of land disturbance activities, swimming pools, tennis courts, solar energy systems, and home occupations. Section 301.070.

According to the League of Minnesota Municipalities, in a memorandum on Frequently Asked Questions about Conditional Use Permits published on September 8, 2008, "A conditional use is a land use designated in a zoning ordinance that is specifically allowed in a zoning district so long as certain standards are met." Further, "A conditional use permit is a document a city issues to grant a conditional use when the general and specific ordinance standards have been met by the applicant."

Authorization for municipalities to issue Conditional Use Permits is provided in Minnesota Statutes § 462.3595.

The Minnesota Supreme Court has recognized that conditional uses "run with the land." *Northpointe Plaza v. City of Rochester*, 465 N.W.2d 686, 689 (Minn. 1991). That means that CUPs are perpetual in nature and "remain in effect as long as the conditions agreed upon are observed." Minnesota Statutes § 462.3595, subd. 3. CUPs must be recorded with the county. *Id.*, subd. 4.

In 1989, the Legislature passed a new law creating the concept of Interim Use Permits. Minnesota Statutes § 462.3597. The difference between a CUP and an IUP is that Interim Use Permits are not perpetual but authorize a "temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it." *Id.*, subd. 1.

In July 2011 a resident filed a request with the City for a Conditional Use Permit authorizing the maintenance of a cabinetry business in his garage. Home occupations are presently recognized as a land use that the City may authorize through the issuance of a Conditional Use Permit. In the course of its deliberation on the matter, the Council considered whether it was appropriate to authorize a home occupation on a perpetual basis, which is what a CUP would do. An Interim Use Permit seemed like a more appropriate tool for authorizing a home occupation that met certain standards.

The ordinance amendments and new chapter 305 are intended to provide for the issuance of Interim Use Permits. A search of the Internet will show that a number of cities and counties in Minnesota have specific ordinances allowing for the issuance of Interim Use Permits and

distinguishing IUPs from CUPs. The city of Mahtomedi has an Interim Use Permit ordinance. Section 11.01, subd. 8-22. White Bear Lake does not (although White Bear Lake is a charter city, not a statutory city like Birchwood and Mahtomedi). Other examples include the cities of Bloomington (Section. 21.501.05), Lakeville (Title 11, chapter 5), and Woodbury (section 24-45) and the counties of Benton (chapter 11.6.3), Scott (chapter 207), and Sherburne (section 16.2).

With this background in mind, the following discussion addresses the specific changes proposed in the City Code.

II. Chapter 301 (ZONING CODE: GENERAL PROVISIONS)

A. 301.070 CONDITIONAL USES

Section 301.070 is amended to delete item 1.f. (Home occupation). The intent of the amendments is to eliminate Conditional Use Permits for home occupations because a home occupation is not intended to “run with the land” and continue in perpetuity, so it is necessary to eliminate the reference to home occupations in this provision.

B. 301.090 INTERIM USE PERMIT

Section 301.090 is a new section adding a definition of “Interim Use.” The definition is taken from the statute – Minnesota Statutes § 462.3597. In addition to the definition, this section also provides that an Interim Use Permit is not required if a Building Permit, a Conditional Use Permit, or a Zoning Permit is issued for the use. This is similar to the language in section 301.070 saying a CUP is not required if a Building Permit has been granted and to language in section 301.080 saying that a Zoning Permit is not required if a Building Permit or Conditional Use Permit is issued. It makes sense to not require an Interim Use Permit if the project or use qualifies for one of the other permits.

Section 301.070 identifies the projects for which a Conditional Use Permit can be applied for (land disturbance activities, swimming pools, tennis courts, solar energy systems, and home occupations), and section 301.080 identifies the projects that require a Zoning Permit (smaller land use activities). This new section 301.090, however, does not identify the projects that can be authorized through an Interim Use Permit, except for home occupations. Other projects that are not specifically identified as the type requiring a Conditional Use Permit or a Zoning Permit would be eligible for an Interim Use Permit as long as the requirements of chapter 305 are met. Of course, a use that is not permitted by specific ordinances of the city, such as prohibited home occupations under section 305.120, would not be entitled to an Interim Use Permit. And home occupations that are allowed under section 305.110 would not require an Interim Use Permit.

III. CHAPTER 306 ZONING CODE: CONDITIONAL USE PERMITS

Some minor changes are required in chapter 306 to recognize that a separate chapter will address Interim Use Permits if the new ordinance is adopted.

A. 306.070 HOME OCCUPATIONS

This section is proposed to be deleted in its entirety. Since a Conditional Use Permit is no longer available for home occupations, there should be no provisions in chapter 307 relating to home occupations. Many of the existing requirements in this section, however, are carried over to the new ordinance, as explained below with the explanation of the chapter 305 provisions.

B. 306.080 NOTIFICATION AND PROCEDURES FOR CONDITIONAL USE PERMITS.

Section 306.080 is a procedural provision establishing the requirements for administering an application for a CUP. It is appropriate to add language to part 1 of that section to recognize that the City must also give such notice of a CUP application as may be required by state statute. Minnesota Statutes § 462.3595, subd. 2 requires that a governmental body give the same notice of a CUP application that is required for a zoning ordinance change in section 462.357, subd. 3. Subdivision 3 of section 462.357 requires that notice be published in the official newspaper, in addition to mailing notice to nearby neighbors, at least ten days in advance of a public hearing on the matter.

A new item 10 is also proposed to be added to this section. Item 10 provides that a decision on a Conditional Use Permit must be made within the time limit expressed in Minnesota Statutes § 15.99. That statute requires a decision to be made on a CUP application within sixty days (with some provision for granting an extension). The City does not want a CUP to be issued upon the City's failure to meet the deadline so this is an appropriate provision to include in the ordinance as a reminder of the deadline.

C. 306.090 - REVOCATION

The main intent here is to repeal any reference to home occupations in item 2 since CUPs are no longer the appropriate permitting mechanism for home occupations. Also, language regarding when a CUP becomes null and void for failure to be made use of is clarified to indicate that the City Council could allow a permittee to have more than one year from the time the CUP is issued to implement the permit.

305 ZONING CODE: INTERIM USE PERMITS

Chapter 305 is all new material, and it provides for the issuance of Interim Use Permits.

The next available higher chapter number in the 300 series (LAND USE REGULATIONS) is chapter 309, although chapter 305 has been reserved for future use and is available. Rather than number the new ordinance on Interim Use Permits as chapter 309, it was decided to use chapter 305 for the Interim Use Permits provisions because this would allow Conditional Use Permits (chapter 306) and Zoning Permits (chapter 307) to follow in sequence.

I. 305.010 - GENERALLY

This provision is a general statement that the City Council may issue Interim Use Permits for temporary uses of property. What kind of uses may be authorized on an interim basis is not defined in the ordinance. This is the typical way that local units of government provide for the issuance of Interim Use Permits. As long as the use satisfies the criteria of the ordinance, and is not in violation of another provision of the code, the City Council may elect to authorize an interim use under appropriate circumstances.

II. 305.020 – PERMIT APPLICATION

This section sets forth the information that an applicant for an Interim Use Permit must submit to the City. The City will, after the ordinance is adopted, prepare a form that applicants can use to apply for an IUP.

The categories are self-explanatory. The language was taken from the ordinance adopted by the City of Bloomington, Minnesota. Bloomington city code, section 21.505.01(i). Obviously, the applicant must sign the form and pay the application fee and identify the property involved. The City needs information about the use to be made, the schedule, and details of the project including a floor plan or site plan. The information that is required to be submitted in an application will allow the City to begin its evaluation of the project.

III. 305.030 – PROCESS FOR CONSIDERATION OF APPLICATION

The process proposed for consideration of an application for an Interim Use Permit is to refer the matter to the Planning Commission. The Planning Commission is the appropriate body to consider the application since it is familiar with the building code and the zoning code. The ultimate decision, of course, rests with the Council but a recommendation from the Planning Commission will be helpful to the Council.

A separate item is included stating that the Council must make a decision in a timely fashion, as required by Minnesota Statutes § 15.99. Again, it is important that the Council be aware of its obligation to make a decision within the 60 days, or longer period if properly extended, allowed by the statute.

IV. 305.040 – STANDARDS GENERALLY

The standards set forth in this section are the ones that municipalities apply to applications for Interim Use Permits. The language was taken from the City of Bloomington ordinance. Section 21.505.01(e).

If an applicant is unable to satisfy these standards, the permit will be denied.

V. 305.050 – PERMIT CONDITIONS

As with other permits the City may issue, it may be necessary and appropriate to impose conditions on the permittee. This section recognizes that fact. In most cases all permit conditions will be developed with the cooperation and acquiescence of the applicant, but in rare cases conditions may have to be imposed over the objection of the applicant.

Four specific permit conditions are recognized in the section. The first is mitigative measures to reduce potential adverse effects. This language recognizes that a permit applicant must consider methods to minimize the impact of the use on the land, the neighbors, and the environment. Without the ability to impose these kinds of conditions, a project may have to be denied rather than approved with mitigation.

The second authorizes the City to conduct inspections of the premises. As the property is put to the proposed use authorized by the permit, it may be necessary to periodically inspect the property to ensure that the permit conditions and the code are being followed. The third specific type of condition spelled out is the requirement to post a financial guarantee. This may not be a condition that is required in all Interim Use Permits but if the use is of a type that may result in significant cleanup activities at the end of the permit, it may be appropriate to require the applicant to post some form of financial guarantee to ensure that the City is not stuck with a cleanup bill. The fourth requirement is that various city code provisions might be imposed as conditions in the permit. This approach would not change the permittee's obligation to comply with the city code but would be a reminder that the permit is dependent on compliance.

Finally, a general clause is included to recognize that the City Council may include any conditions that are reasonable and appropriate. In order for a condition to be reasonable and appropriate, the record would have to support the imposition of the condition and it would have to be within the City's authority to impose it.

VI. 305.060 – SUSPENSION OR REVOCATION

This is another provision where the language was taken from the Bloomington ordinance, section 21.505.01(g), although it is a common provision with municipal ordinances allowing interim uses. It simply provides that the City Council may suspend or revoke an Interim Use Permit if

violations of the city code, state law, or the permit occur. The City could not suspend or revoke the permit without affording the permittee due process, which means the permittee must have notice and opportunity to be heard, but it is a good idea to express in the ordinance that an IUP is subject to suspension or revocation for noncompliance. The specifics of that process are not spelled out in the ordinance but the City will ensure that the proper procedural steps are followed by any IUP is suspended or revoked.

VII. 305.070 – TERMINATION

There are five events spelled out in this section that could lead to termination of an Interim Use Permit. The language is worded to make the termination automatic upon the occurrence of any of the events.

The first termination event is the date of termination specified in the permit or the specific event identified in the permit. By definition an Interim Use Permit is an authorization that has a specific termination trigger – a date or an event. If that date arrives or the event occurs, the permit terminates without any further action by the Council.

The second termination trigger is a change in the zoning regulations that would no longer permit the use. An example would be an IUP for a home occupation that was allowed when the permit was issued but that was later prohibited by a change in the city code.

The third event is a failure on the part of the permittee to begin putting the property to the interim use allowed within six months of issuance of the permit. This is appropriate to give the City the ability to terminate the permit and take a new look at the project if the permittee still wanted to go ahead. Six months should be time enough to at least start a project that has a limited life anyway.

The fourth event that will cause the permit to be terminated is if the permittee begins use of the property as allowed but then stops for a period of one year or longer. Again, if the property is not going to be used for the intended use, then the permit may be properly terminated.

Finally, the last event, which will terminate the permit if no other trigger comes into play, is five years from issuance. This is the same as saying that no Interim Use Permit can be for longer than a five year period. Again, since it is an interim use that is being permitted, five years should be long enough to carry out the project. If more time is needed after five years, there is nothing in the ordinance that prohibits the person from reapplying for a new permit.

VIII. HOME OCCUPATIONS

Up to this point, the provisions in chapter 305 apply generally to any interim use to be permitted. However, since the major reason for adopting this new chapter is to address home occupations, it makes sense to specifically address home occupations. The requirements in the 100 series apply only to home occupations.

A. 305.100 – HOME OCCUPATIONS GENERALLY

This paragraph is an introductory provision describing the intention of the new ordinance. The first sentence is presently found in the existing ordinance, section 306.070. The next two sentences simply describes that a person may apply for an Interim Use Permit for a home occupation if the occupation is not allowed by ordinance nor prohibited by the ordinance.

B. 305.110 – ALLOWED HOME OCCUPATIONS

The list of home occupations that are allowed is taken from the existing ordinance, section 306.070, item 1. The only change is to eliminate the phrase “similar occupations as determined by the city staff and city council.” This language was deleted because any additional occupations that are to be allowed should be addressed through an amendment to the ordinance, not by some other process. Also, because home occupations that are not on the list of allowed occupations can now be authorized by the issuance of an Interim Use Permit (if they are not on the prohibited list), the process outlined in chapter 305 will provide an appropriate process for considering the unlisted occupation.

C. 305.120 – PROHIBITED HOME OCCUPATIONS

The list of home occupations that are allowed is taken from the existing ordinance, section 306.070, item 2. Again, the only difference is that the phrase “or other objectionable activities as determined by the city staff or city council.” (The existing language uses the word “or” between staff and council, whereas the language in item 1 described above uses the word “and.”) For the same reasons just discussed above, it is appropriate to require an ordinance amendment if an additional home occupation is to be added to the list of prohibited occupations.

D. 305.130 – HOME OCCUPATIONS ALLOWED BY INTERIM USE PERMIT

This provision recognizes that for those occupations that are not allowed outright, and thus need no permit, or prohibited, so no permit can be issued, an Interim Use Permit can be issued authorizing the home occupation.

E. 305.140 – APPLICATION FOR AN INTERIM USE PERMIT

This section lays out the information the City requires as part of an application for an IUP for a home occupation. This information is in addition to any information required under section 305.020 for any IUP application.

Items 1, 2, 3 and 7 are identical to what is presently found in section 306.070, item 3. Items 4, 5, and 6 are new but the information required by these provisions was always required as part of any application for a home occupation permit in the past anyway, so the obligations are neither unexpected nor burdensome.

The process for acting on an IUP application for a home occupation will be the same as the process for any other IUP application found in section 305.030.

F. 305.150 – PROCESS FOR CONSIDERATION OF APPLICATION FOR HOME OCCUPATION

An application for an IUP for a home occupation will be acted upon in the same manner as any other IUP application. The applicable process is found in section 305.030. It is helpful, however, to include this section so the public knows that an application for an IUP for a home occupation will be referred to the Planning Commission for a public hearing and the creation of an administrative record.

G. 305.160 – REQUIREMENTS AND STANDARDS FOR HOME OCCUPATIONS

The list of requirements and standards for a home occupation in this section is identical to the list already found in 306.070, item 4. The only change was to include an introductory sentence indicating that a permit applicant had to comply with these requirements and to number the requirements rather than to use letters simply to make the format identical to that in other provisions. The requirements are all reasonable limitations on a home occupation that is not specifically allowed under the code. In most cases it is likely that these requirements will also be incorporated into the actual Interim Use Permit as conditions.

H. 305.170 – INSPECTION

This is another provision intended specifically for home occupations that is similar to the general provision in section 305.020, item 2, that the City may make an IUP conditional on the right to inspect the property periodically. However, it is included here to emphasize that the City does intend to maintain the right to inspect property on which a home occupation has been permitted through the issuance of an Interim Use Permit. Also, it is included here because it already exists in the present ordinance, section 306.070, item 6. The only change is to update the reference to the ordinance setting forth the requirements for home occupations.

I. REPEALER

The present ordinance – section 306.070, item 5 – addresses nonconforming home occupations. This provision provides that any person conducting a home occupation out of compliance with section 306.070 has 90 days to obtain a Conditional Use Permit. Since that 90 day period has long expired, there is no need to include this language. Any person who is presently conducting a home occupation without a permit (unless the occupation is allowed under section 305.110) is in violation of the city code and should immediately apply for an Interim Use Permit. If the home occupation is prohibited under section 305.120, the person should cease immediately with the occupation.

The existing section 306.070, item 5, also establishes that a CUP for a home occupation automatically terminates when the applicant no longer resides in the specific dwelling unit. Since a CUP “runs with the land” it is uncertain whether such a condition is enforceable. That is an important reason why a separate ordinance regarding Interim Use Permits is being adopted and this section is being repealed.

**STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF BIRCHWOOD VILLAGE**

ORDINANCE 2012-04

AN ORDINANCE AMENDING CHAPTER 301 (ZONING CODE: GENERAL PROVISIONS) AND CHAPTER 306 (ZONING CODE: CONDITIONAL USE PERMITS) TO CLARIFY CONDITIONAL USE PERMIT PROVISIONS AND TO ADD A PROVISION ALLOWING FOR THE ISSUANCE OF INTERIM USE PERMITS AND ADOPTING NEW CHAPTER 305 (ZONING CODE: INTERIM USE PERMITS) TO ESTABLISH STANDARDS AND PROCEDURES FOR INTERIM USE PERMITS

WHEREAS, the City of Birchwood has adopted chapter 301 and chapter 306 to allow for the granting of conditional use permits in certain situations, and

WHEREAS, conditional use permits run with the land, and

WHEREAS, the Minnesota Legislature has provided in Minnesota Statutes section 462.3597 that municipalities may allow for the issuance of interim use permits that will terminate under certain conditions, and

WHEREAS, the City of Birchwood is desirous of allowing for the issuance of interim use permits.

NOW, THEREFORE, the City Council of the city of Birchwood Village ordains that chapter 301 and chapter 306 are hereby amended to read as follows and chapter 305 is adopted to read as follows:

301 ZONING CODE: GENERAL PROVISIONS

301.070. CONDITIONAL USES. Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306 (CONDITIONAL USE PERMITS).

1. A Conditional Use Permit shall be required for the following projects:
 - a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such water than the structure setback requirement. See Note at end of Section 301.070.

- b. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.
- c. Any swimming pool with a capacity over three thousand (3000) gallons or with a depth of over three and one-half (3 ½) feet of water.
- d. Any tennis court.
- e. Any solar energy system for heating, cooling, electrical generation or other purposes.

~~f. Home occupation.~~

NOTE: A separate Conditional Use Permit is not required for a land disturbance activity when a building permit has been granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030 and shall follow all provisions of Section 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.

301.090. INTERIM USES. An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. An interim use permit is not required if a Building Permit or a Conditional Use Permit or a Zoning Permit is issued for the use. An Interim Use Permit is required for a home occupation allowed under section 305.130.

306 ZONING CODE: CONDITIONAL USE PERMITS

\ 306.070 HOME OCCUPATIONS. Section 306.070 is repealed in its entirety.

306.080 NOTIFICATION AND PROCEDURES FOR CONDITIONAL USE PERMITS

1. Notice of Conditional Use Permit application shall be mailed at least 10 days prior to the Planning Commission meeting to each owner of property within 200 feet of the property to which the Conditional Use Permit relates, and when applicable to the Department of Natural Resources. The City Clerk shall mail such notices. The City shall also give such notice as may be required by state statute.

10. The City shall make a decision on a Conditional Use Permit within the time limitation of Minnesota Statutes section 15.99.

306.090 REVOCATION

1. A violation of any condition set forth or required by the City Council in granting a Conditional Use Permit shall be a violation of this Code, and the City Council after Notification and Procedures per Section 306.090, may terminate the Conditional Use Permit.
2. A Conditional Use Permit shall become null and void one year after it was granted, unless made use of within the year, or ~~such a~~ longer period of time if prescribed by the Council at the time the permit is issued. ~~A Conditional Use Permit for a Home Occupation shall become null and void if the Home Occupation is not carried out for any continuous interval of one year.~~

305 ZONING CODE: INTERIM USE PERMITS

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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.

**STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF BIRCHWOOD VILLAGE**

ORDINANCE 2012-04

AN ORDINANCE AMENDING CHAPTER 301 (ZONING CODE: GENERAL PROVISIONS) AND CHAPTER 306 (ZONING CODE: CONDITIONAL USE PERMITS) TO CLARIFY CONDITIONAL USE PERMIT PROVISIONS AND TO ADD A PROVISION ALLOWING FOR THE ISSUANCE OF INTERIM USE PERMITS AND ADOPTING NEW CHAPTER 305 (ZONING CODE: INTERIM USE PERMITS) TO ESTABLISH STANDARDS AND PROCEDURES FOR INTERIM USE PERMITS

WHEREAS, the City of Birchwood has adopted chapter 301 and chapter 306 to allow for the granting of conditional use permits in certain situations, and

WHEREAS, conditional use permits run with the land, and

WHEREAS, the Minnesota Legislature has provided in Minnesota Statutes section 462.3597 that municipalities may allow for the issuance of interim use permits that will terminate under certain conditions, and

WHEREAS, the City of Birchwood is desirous of allowing for the issuance of interim use permits.

NOW, THEREFORE, the City Council of the city of Birchwood Village ordains that chapter 301 and chapter 306 are hereby amended to read as follows and chapter 305 is adopted to read as follows:

301 ZONING CODE: GENERAL PROVISIONS

301.070. CONDITIONAL USES. Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306 (CONDITIONAL USE PERMITS).

1. A Conditional Use Permit shall be required for the following projects:
 - a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such water than the structure setback requirement. See Note at end of Section 301.070.

- b. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.
- c. Any swimming pool with a capacity over three thousand (3000) gallons or with a depth of over three and one-half (3 ½) feet of water.
- d. Any tennis court.
- e. Any solar energy system for heating, cooling, electrical generation or other purposes.

NOTE: A separate Conditional Use Permit is not required for a land disturbance activity when a building permit has been granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030 and shall follow all provisions of Section 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.

301.090. INTERIM USES. An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. An interim use permit is not required if a Building Permit or a Conditional Use Permit or a Zoning Permit is issued for the use. An Interim Use Permit is required for a home occupation allowed under section 305.130.

306 ZONING CODE: CONDITIONAL USE PERMITS

\ 306.070 HOME OCCUPATIONS. Section 306.070 is repealed in its entirety.

306.080 NOTIFICATION AND PROCEDURES FOR CONDITIONAL USE PERMITS

1. Notice of Conditional Use Permit application shall be mailed at least 10 days prior to the Planning Commission meeting to each owner of property within 200 feet of the property to which the Conditional Use Permit relates, and when applicable to the Department of Natural Resources. The City Clerk shall mail such notices. The City shall also give such notice as may be required by state statute.

10. The City shall make a decision on a Conditional Use Permit within the time limitation of Minnesota Statutes section 15.99.

306.090 REVOCATION

1. A violation of any condition set forth or required by the City Council in granting a Conditional Use Permit shall be a violation of this Code, and the City Council after Notification and Procedures per Section 306.090, may terminate the Conditional Use Permit.
2. A Conditional Use Permit shall become null and void one year after it was granted, unless made use of within the year, or a longer period of time if prescribed by the Council at the time the permit is issued. .

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 its 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.

**STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF BIRCHWOOD VILLAGE
RESOLUTION 2012-11**

A Resolution Approving Ordinance 2012-04 Amending Chapter 301 (Zoning Code: General Provisions) and Chapter 306 (Zoning Code: Conditional Use Permits) To Clarify Conditional Use Permit Provisions And To Add A Provision Allowing For The Issuance Of Interim Use Permits And Adopting New Chapter 305 (Zoning Code: Interim Use Permits) To Establish Standards And Procedures For Interim Use Permits

WHEREAS, the City of Birchwood Village is a political subdivision, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City of Birchwood has adopted chapter 301 and chapter 306 to allow for the granting of conditional use permits in certain situations, and

WHEREAS, conditional use permits run with the land, and

WHEREAS, the Minnesota Legislature has provided in Minnesota Statutes section 462.3597 that municipalities may allow for the issuance of interim use permits that will terminate under certain conditions, and

WHEREAS, the City of Birchwood is desirous of allowing for the issuance of interim use permits; and

WHEREAS, one use that the City Council has determined should be an interim use rather than a conditional use is certain home occupations that are neither allowed nor prohibited under the city code; and

WHEREAS, it is necessary to amend chapters 301 and 305 to recognize that interim use permits may be issued for certain home occupations and other interim uses; and

WHEREAS, the Birchwood Planning Commission reviewed the draft ordinance amendments and recommended approval of the proposed amendments; and

WHEREAS, the City Council held a public hearing on April 10, 2012, and no person testified in opposition to the proposed amendments; and

WHEREAS, the amendments proposed for chapter 205 are reasonable and appropriate

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIRCHWOOD VILLAGE, MINNESOTA, AS FOLLOWS:

1. That Chapter 301 of the City Code, entitled ZONING CODE: GENERAL PROVISIONS, is amended as shown in the attached document to recognize that the City may issue Interim Use Permits.
2. That Chapter 306 of the City Code, entitled ZONING CODE: CONDITIONAL USE PERMITS, is amended as shown in the attached document to clarify certain procedural requirements for administering conditional use permit applications.
3. That Chapter 305 of the City Code, entitled ZONING CODE: INTERIM USE PERMITS, is adopted as shown in the attached document to provide for the issuance of interim use permits for certain home occupations and other interim uses.
4. The effective date of these ordinance amendments and new chapter shall be upon their publication as required by law.
5. The City may publish the attached summary of Chapter 305 and need not publish the entire chapter showing all the provisions.

Adopted by the City Council on this ____ day of _____, 2012, by the following vote:

Mitchell: ____ Harper: ____ Carson: ____ Peterson: ____ Sampair: ____

Approved:

Alan Mitchell, Mayor

Attest:

Dale Powers, City Clerk/Coordinator

SUMMARY OF CHAPTER 305

On April 10, 2012, the Birchwood City Council passed a resolution adopting chapter 305 of the City Code, entitled ZONING CODE: INTERIM USE PERMITS, to provide for the issuance of Interim Use Permits for certain home occupations and other temporary uses of property. The provisions in Chapter 305 are summarized as follows:

- Section 305.010 (Generally) simply recognizes that the City of Birchwood Village may issue Interim Use Permits. An Interim Use is defined in Section 301.090 as a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit the use.
- Section 305.020 (Process for Consideration of Application) sets forth the information that must be included in an application for an Interim Use Permit. The information relates to the specific property and the use that is intended.
- Section 305.030 (Process for Consideration of Application) sets forth the process for the City to act on a request for an Interim Use Permit. The process calls on the Planning Commission to review the application and make a recommendation to the City Council.
- Section 305.040 (Standards Generally) sets forth the standards that an applicant must meet to obtain an Interim Use Permit. These standards generally require that the proposed temporary use not adversely impact the neighborhood.
- Section 305.050 (Permit Conditions) recognizes the authority of the City to attach conditions to any Interim Use Permit that is issued.
- Section 305.060 (Suspension or Revocation) provides that the City may suspend or revoke an Interim Use Permit if the permit holder violates conditions in the permit or other code restrictions. Notice will be given to the holder before any suspension or revocation is effective.
- Section 305.070 (Termination) provides that an Interim Use Permit will terminate upon the occurrence of an identified date or event, or a change in City zoning regulations, or if the use has not begun within six months after issuance of the permit, or if the use begins but is then inactive for a year or longer, or finally, five years after issuance.

- Section 305.100 (Home Occupations) states that in the future home occupations that are neither allowed nor prohibited by the City Code may be conducted only after issuance of an Interim Use Permit. A conditional use permit is no longer appropriate for an authorized home occupation. The 100 series of this chapter apply to home occupations.
- Section 305.110 (Allowed Home Occupations) sets forth certain home occupations that are allowed within Birchwood without the necessity of obtaining an Interim Use Permit. This list of allowed home occupations is the same as what is in the City Code presently. Section 306.070(1).
- Section 305.120 (Prohibited Home Occupations) sets forth certain home occupations that are not permitted with the city limits. This list of prohibited home occupations is the same as what the City Code presently outlaws. Section 306.070(2).
- Section 305.130 (Home Occupations Allowed by Interim Use Permit) provides that those home occupations that are neither allowed nor prohibited may be allowed but only after issuance of an Interim Use Permit.
- Section 305.140 (Application for an Interim Use Permit) sets forth the information that must be included in a permit application for an Interim Use Permit for a home occupation.
- Section 305.150 (Process for Consideration of Application for Home Occupation) provides that the City will act on an application for an Interim Use Permit for a home occupation in the same manner that it acts on any Interim Use Permit application.
- Section 305.160 (Requirements and Standards for Home Occupations) sets forth the requirements and standards for obtaining an Interim Use Permit for a home occupation. These requirements and standards are essentially the same as what section 306.070(4) presently provides.
- Section 305.170 (Inspection) provides that the City reserves the right to inspect premises in which a home occupation is being conducted. This right was previously recognized in section 306.070(6).