

INTERIM USE PERMIT

ZONING CODE: 153.035

Interim Use Permit Process

Zoning district land use standards may include a list of allowed interim uses. The application for an Interim Use Permit (IUP) is processed and reviewed in a two-stage Planning Commission and City Council formal review process usually initiated by an informal staff review.

Purpose:

Purpose and intent. The purpose and intent of allowing interim uses is:

1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the City but that with anticipated development or redevelopment will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
3. To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

Information Required for an IUP

An application for an IUP shall be made to the City on the zoning application form. All applications shall be accompanied by the IUP Application Fee and Escrow Deposit as set by City Council. The application shall include the following information or attachments:

1. Written and graphic materials fully explaining the proposed use, development, or change;
2. Legal description of the property;
3. General site map, including neighboring properties/parcels;
4. Principle land uses within 350 feet of the property;
5. Certificate of survey (to scale) which includes applicable existing and proposed conditions, including property lines and dimensions, building location(s) and setbacks, dimensions of building, curb cuts, driveways, access roads, parking, off-street loading areas, septic system, and well;
6. Landscape plan drawn to scale including applicable existing and proposed vegetation and plantings, plant schedule (plant size, quantity, type and root condition, groundcover);
7. Grading and drainage plans;

8. Soil conditions;
9. Building floor plans, elevations, and sections;
10. Description of business or activity; proposed number of employees;
11. A signed financial bill-back agreement that consents to the Applicant being billed by the for all legal, engineering and administration costs pertaining to the City review of the application.
12. Certification/verification that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the IUP application applies;
13. Electronic copies of all submittal documents; and
14. Other information as required by the City.

Procedure Requirements

1. Pursuant to Minnesota Statutes, an application for an interim use shall be approved or denied within 60 days from the date of its official and complete submission. The 60 day review period can be extended an additional 60 days pursuant to M.S. §15.99, as it may be amended from time to time. If the initial 60 day review period is extended, the City must provide written notice of the extension to the Applicant before the end of the initial review period.
2. Upon receipt of a complete application, as determined by the City and following preliminary staff analysis of the application, the City shall refer the matter to the Planning Commission and establish a time for hearing on the application. Notice of the hearing shall be published in the official newspaper at least 10 days prior to the hearing. Written notification of the hearing shall be mailed at least 10 days prior to the hearing to all owners of land within 350 feet of the boundary of the property in question.
3. Failure of a property owner to receive the notice shall not invalidate any such proceedings as set forth within this chapter, provided a bona fide attempt to comply with the provisions of this chapter has been made. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be made a part of the record.

The Planning Commission & City Council Review Process

Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the following standards and procedures.

1. The Applicant(s) shall submit a completed zoning application and all required materials to the City. The Planning Commission and City staff shall have the authority to request additional information from the Applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the Applicant.
2. The Planning Commission shall take public testimony at the public hearing and review the submitted application and recommendation from City staff and make a recommendation to City Council for denial or approval. The recommendation of the Planning Commission shall include all conditions or modifications to the application.
3. The Planning Commission, in making a recommendation, and the City Council, in acting upon an interim use application, shall consider the following general standards:

- a. The Planning Commission shall consider if the proposed use pursuant to the application is consistent with the general purpose and intent of this chapter and the Comprehensive Plan. Its judgment shall be based upon but not limited to, the following:
 - i. The impact of the proposed use on the health, safety, and general welfare of the occupants of the surrounding lands;
 - ii. Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands;
 - iii. The effect of the proposed use on public utilities;
 - iv. The effect of the proposed use on the Comprehensive Plan;
 - v. The effect of the proposed use on property values and scenic views in the surrounding area;
 - vi. The results of a market feasibility study, if requested by the City, when the purpose for the conditional use requested relies on a business market for its success;
 - vii. The effects on the proposed groundwater, surface water, and air quality; and,
 - viii. The date or time the interim use shall terminate.
4. The Planning Commission and City staff shall have the authority to request additional information from the Applicant concerning operational factors or to retain expert testimony with the consent or at the request of the Applicant.
5. The Applicant or Applicant's representative may appear before the Planning Commission in order to present information and answer questions concerning the proposed request.
6. The Planning Commission shall make findings of fact and make a recommendation on such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of Chapter 153. The recommendation shall be in writing and accompanied by the report and recommendation of City staff.
7. Upon receiving the recommendation of the Planning Commission, the Zoning Division shall schedule the application for consideration by the City Council. The reports and recommendations shall be entered in and made part of the permanent record of the City Council meeting.
8. The City Council shall review the submitted application and recommendation from the Planning Commission and City staff and make a final decision. The final decision of the City Council shall include all conditions or modifications to the application.
9. The City Council shall not grant an IUP until it has received a report and a recommendation from the Planning Commission and the Zoning Division, or until 60 days after the first regular Planning Commission meeting at which the request was considered except as may be limited by Minn. Stat. §15.99.
10. The City Council may impose and the Applicant shall pay costs incurred by the City for monitoring compliance with the conditions of the IUP.
11. Approval of a IUP request shall require passage by a majority vote of the entire City Council.

Amendment of an Approved IUP

Holders of an IUP may propose amendments to the permit at any time, following the procedures set forth for a new permit. No significant changes in the circumstance or scope of the permitted uses shall be undertaken without approval of those amendments by the City Council. The City shall determine what constitutes significant change. Significant change includes, but is not limited to: hours of operation, number of employees, expansion of structures and/or premises, and operational modifications resulting in increased external activities and traffic. The Planning Commission may recommend, and the City Council may approve, significant changes and modifications to IUP's including the application of additional or revised conditions.

Termination of Interim Use Permit

An interim use shall terminate on the happening of any of the following events, whichever occurs first:

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

Revocation

A violation of any conditions set forth in an IUP shall be a violation of the Zoning Ordinance; failure to correct the violation within 30 days of written notice from the City shall terminate the permit.

Revocation shall not occur earlier than 10 City/business working days from the time of written notice of revocation is served upon the permit holder; or if a hearing is requested, until written notice of the City Council action has been served on the permit holder.

Notice to permittee shall be served personally or by registered or certified mail at the address designated in the permit application. The written notice of revocation shall contain the effective date of the revocation, the nature of the violation or violations constituting the bases of the revocation, the facts which support the conclusions that a violation or violations have occurred, and a statement that if the permit holder desires to appeal, the permit holder must, within 10 days, exclusive of the day of service, file a request for a hearing.

The hearing request shall be in writing, stating the grounds for appeal and served on the City of Forest Lake personally or by registered/certified mail by midnight of the tenth City working date following service of the revocation notice.

Following receipt of a request for a hearing, the City shall set a time and place for the hearing; notice of the hearing shall be in accordance with the procedures to appeal decisions as set forth in the City Code.

Expiration

Unless the Planning Commission specifically approves a different time when action is officially taken on the request, permits which have been issued under the provisions of this chapter shall expire without further action by the Planning Commission unless the Applicant commences the authorized uses within 1 year of the date the IUP is issued, or, unless before the expiration of the 1-year period, the Applicant shall apply for an extension thereof by completing and submitting a request for extension. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the IUP. A request for an extension not exceeding 1 year shall be subject to the review and approval of the City. Should the Applicant request a second extension or any extension of time longer than 1 year, it shall be presented to the Planning Commission for a decision.

Reapplication

No application for an IUP for a specific use on a specific parcel shall be resubmitted for a period of one year from the date of denial of an application unless a decision to reconsider the matter is made by a majority vote of the City Council.