

# Building in the City of Birchwood Village

Use this document to

- Know your rights and responsibilities
- Understand the rights of your neighbors
- Help you get the permits you need

*Your guide to improving your property while respecting your neighbors and observing the requirements of the City Building and Zoning laws.*

## Responsible Development Starts With Planning!

Planning is necessary for a successful outcome. Take time before you begin any work to be sure you will meet the requirements of the City building and zoning regulations.

Here is a summary.

### 1. **Building Regulations**

All construction must meet City building code regulations. These regulations are found in the [Minnesota State Building Code](#) and in Chapter [203](#) of the Birchwood Code.

Design professionals can help you navigate construction requirements.

### 2. **Land disturbance regulation**

Excavation and filling must meet the regulations found in Chapters [302](#) and [306](#) of the Birchwood Code.

### 3. **Zoning Regulations**

All construction must meet the zoning standards found in Chapter [302](#) of the Birchwood Code. The standards govern:

- Minimum lot size
- Setbacks and location of structures
- Elevation above high water
- Occupancy requirements
- Structure Height
- Impervious surface area
- Storm water runoff

Let your neighbors know what will be happening. Involve them early in the process, and use the plan to keep the lines of communication open.

## Apply For Permit(s).

### 1. **Building Permit**

For most projects, you'll need a building permit. With a few exceptions, any work that you or a contractor do to build, repair, or extend structural elements on your property will

require a building permit. Separate permits are also required for plumbing, mechanical and electrical work.

## 2. **Conditional Use Permit**

For a few types of projects, you may need a conditional use permit:

- Grading/filling/excavating near lakes and wetlands where slope is toward lake or wetland.
- Larger landscaping projects and grading/filling/excavating greater than 400 square feet or 50 cubic yards
  - Smaller land disturbance activities may need a Zoning Permit.
- Swimming pools
- Tennis courts

## 3. **Zoning Permit**

You'll need only a Zoning permit for projects involving these types of structures:

- Retaining walls
- Sheds and accessory buildings greater than 144 square feet
- Driveways
- Fences (also need to notify neighbors)
- New or enlarged sidewalks, patios or driveways
- Low, unattached decks or platforms
- Small landscaping or land disturbance activities
- Stairs or lifts to the lake.
- Beach Sand Replacement

*To apply for a permit, go to the website [www.cityofbirchwood.com](http://www.cityofbirchwood.com), complete the application and send it in along with the plans and checklist to City Hall. They are then forwarded to the appropriate staff.*

207 Birchwood Ave.

Birchwood, MN 55110

Phone: 651-426-3403 Fax: 651-426-7747

Email: [info@cityofbirchwood.com](mailto:info@cityofbirchwood.com)

## **Obtain Permit Approval**

1. **Building Permit** For most projects, you'll need a building permit. If your permit consists of only interior work, it will be reviewed by the city building official. If you plan on adding onto the outside of your home, it will then be reviewed by the City Planner. The City Planner will check all setbacks, height restrictions and lot coverage. The City Engineer will check grade elevations and any runoff issues. The Building Inspector will review the construction of the structure. Separate permits are also required for plumbing, mechanical and for electrical work.

The [fee for this service varies](#) depending on the valuation of work being done.

2. **Conditional use permit** City staff will verify your application is complete, then will forward it to the Birchwood Planning Commission. The [Birchwood Planning Commission](#)

will hold a public hearing and make a recommendation. The [City Council](#) will then make a decision on whether to grant a Conditional Use permit. The fee for this service is listed in the [city fee schedule](#).

**3. Zoning Permit-**

City staff will verify your application is complete, then will forward it to the Building, Planning and Engineering Departments for review. City staff will inform you if your plan does not meet zoning standards and will work with you on alternatives. If the plan meets all zoning standards, city staff will contact you, and issue a permit upon payment of fees. The fee for this service is listed in the [city fee schedule](#).

## Zoning Variances

If your project does not meet Birchwood zoning standards, you may apply to the City for a variance. You can get help starting this process from city staff at Birchwood City Hall.

Many lots in Birchwood are odd sizes, and over a century of development means that there is substantial variation in lots and structures. Variances are required when you are unable to improve your property within the Birchwood codes. To obtain a variance, you must first apply for a permit.

A variance may be granted where enforcement of a zoning ordinance provision as applied to a particular piece of property would cause the landowner practical difficulties. Whether the landowner would have practical difficulties depends on whether the proposed use is reasonable; whether the landowner's problem is due to circumstances unique to the property that are not caused by the landowner; and finally, whether the variance, if granted, would not alter the essential character of the locality.

The fee to [apply for a variance](#) is listed in the [city fee schedule](#).

When completing the variance application form, you should specify the specific code provision(s) to which a variance is requested.

Example Variance types	Birchwood City Code
Impervious surface requirements	<a href="#">302.050</a>
Front, back and side setback requirements	<a href="#">302.020(2)</a>
Height requirements	<a href="#">302.045</a>

You should describe what modification to each code provision must be made for the variance application. For example, you would explain that the required side setback must be reduced by one foot for your proposed design.

Prior to variance application, you should seek to minimize any non-conformity with city codes, and to reduce any existing non-conformity. Thorough analysis and detail in the application can reduce the amount of time and expense of redesigning needed to get a variance if you thoroughly evaluate all alternatives and clearly explain why the design you have proposed cannot be changed in a way that reduces non-conformity.

## **Meeting with the Planning Commission and City Council**

The Birchwood Planning Commission meets monthly to evaluate and make recommendations on variances, use and zoning permits. Building permits that do not require a variance from city codes are not evaluated by the planning commission.

When evaluating variances, the Planning Commission may consider alternative designs and recommend variances for approval to the City Council only in cases where there is no conforming alternative that overcomes practical difficulties. The Planning Commission's goal is to minimize the non-conformance with existing code. For example, a design that requires a one-foot reduction in side setbacks, even at additional owner expense, is preferable to a design that requires a larger variation from code.

Once the Planning Commission makes a recommendation on a finding of fact of the details of the variance application, the City Council considers the application at its next meeting, and acts on the variance application. An application that the City Council denies can be appealed. The appeal procedure is described in City Code Section [304](#).

## **Frequently Asked Questions**

### **What are my rights and responsibilities?**

You can use and improve your property as long as you meet the City's code for building and use of land.

### **Where do I find these regulations?**

The City Code contains the regulations. You can review a copy at the Birchwood City Hall or on the [Birchwood web site](#).

### **What is regulated?**

Land disturbance activities greater than 100 square feet or greater than ten cubic yards are regulated. Walls, fences and structures are also regulated. Permits are required for new buildings, additions, residential alterations or renovations (decks, garage, basement finishes, kitchen expansion, roofs, pools, siding, sheds, patios, etc.), building or interior demolition, electrical, plumbing and HVAC/mechanical. If you are wondering if your project requires a permit, contact the city at 651-426-3403

## **What work does *not* require a permit?**

- Cosmetic maintenance or updates
  - Painting, wallpaper
  - Carpet or tile flooring
  - Cabinet or countertop replacement
  - Storm doors
  - Gutters
  - Trim
- Tool and storage sheds under 144 square feet
- Residential playground equipment
- Gardens

## **Why are property improvements regulated?**

Regulations and standards have been adopted by the City to promote the basic health, safety and welfare, to safeguard lakes and wetlands, and to implement Birchwood's [comprehensive plan](#).

## **What about my neighbors'?**

Just as you would like to know about activity on nearby property that affects you, your neighbor would like to know if you are making changes that might impact sight lines, views, runoff, drainage, changes on foliage, traffic, noise and air circulation. The city will notify neighbors for some changes, such as fence installations.

## **Where do I start?**

1. Review City Code as it pertains to your project.
2. Download or request permit application forms to see what is required to meet permitting and code requirements.
3. Contact the city with questions about your project.
4. Develop the drawings required by the permit.
5. Submit your application and documents, and review them with city staff.

## **Who should apply for the permit?**

The person who requests the permit is responsible for meeting the conditions of codes and permits, so the contractor or resident who is doing the work should request the permit.

## **What requirements should my contractor meet?**

Contractors that work in Birchwood must provide \$1,000,000 in general liability insurance, and must name the city of Birchwood as additional insured (301.055(1))

Construction, remodeling, electrical, plumbing, fire suppression, house moving and sewer and water installation contractors must be licensed by the state. You can validate state licenses at the [Minnesota Department of Labor and Industry](#).

**What documents do I need to submit with my permit application?**

Permit and variance applications should include all the required documents on the permit application form. Plans must show current structures on adjacent lots and the height and layout of structures on the plat. For remodeling or reconstruction, permit applications must show both existing and new construction.

**Where should I look in the building codes for more information?**

<i>I want to...</i>	<i>You may need...</i>	<i>You should review...</i>
build a <b>swimming pool</b>	a conditional use permit	<a href="#">203.040</a> , <a href="#">306.040</a> , <a href="#">301.070</a>
build a <b>fence</b>	a zoning permit	<a href="#">301.080.1.b</a> , <a href="#">302.070</a> , <a href="#">307.010</a>
build a <b>retaining wall</b>	a zoning permit	<a href="#">302.070</a> , <a href="#">307.010</a>
build a <b>sidewalk, driveway or patio</b>	a zoning permit if the area is more than 100 square feet.  Sidewalks, decks and patios must adhere to impervious surface restrictions	<a href="#">302.050</a> , <a href="#">307.010</a>
build a <b>deck</b>	a building permit or  a zoning permit if the deck is less than 30 inches above grade, not attached to a structure with frost footings.	<a href="#">307.010</a>
build a <b>tennis court</b>	a conditional use permit	<a href="#">306.050</a>
install a <b>solar energy system</b>	a conditional use permit	<a href="#">306.060</a>
replace a <b>roof</b>	A roofing permit	

replace <b>beach sand</b>	a zoning permit	<a href="#">301.080</a> , <a href="#">307.010</a>
build or remodel a <b>house</b> or <b>garage</b> structurally	a building permit	<a href="#">301.060</a> <a href="#">302</a>
Land Disturbance Activities:  Any land change that may result in soil erosion from water or wind and the movement of sediments including, but not limited to, grading, excavating, and filling of land, and removal of vegetation. EXCEPTION: Gardening or the planting of trees or shrubs shall not be considered to be a land disturbance activity.	a zoning permit a conditional use permit a building permit  Permits from the <a href="#">Minnesota DNR</a> , <a href="#">Rice Creek Watershed District</a> , <a href="#">White Bear Lake Conservation District</a> .	<a href="#">306.030</a> <a href="#">301.070</a> <a href="#">307.010</a>
<b>stairs</b> to a lake or water body	a zoning permit	<a href="#">302.080</a> , <a href="#">307.010</a>
remove a <b>tree</b>	to replace significant trees removed. Significant trees are conifers greater than six feet or higher and deciduous trees 8 inches or more in diameter.	<a href="#">302.055(2)(d)</a>
Install or modify <b>sewer, plumbing, or water</b>	a <a href="#">plumbing permit</a>	<a href="#">203</a>
Install or modify <b>heating, ventilation or air conditioning</b> (HVAC) systems	an <a href="#">HVAC permit</a>	<a href="#">203</a>
do <b>electrical</b> work	Minnesota State Permit	<a href="#">Minnesota Department of Labor and Industry</a> requirements.

**What is impervious surface and what are the requirements?**

Impervious surface is defined in Chapter [300](#) in detail. In general, impervious surface includes ground surfaces that limit the amount of water that can enter the soil. Limiting impervious surface is important to allow runoff to filter through the soil before it reaches lakes, wetlands, or neighboring property.

Generally, Birchwood code limits impervious surface to 25 percent of lot area, unless certain conditions are met. Those conditions are described in Chapter [302.050](#). With a variance, stormwater management methods, such as rain gardens, may be used to handle water on sites, in cases where meeting the 25 percent impervious requirement is infeasible. A design professional can help you evaluate materials and their effect on your impervious surface.

**Where can I get more information?**

You can bring your questions to a [Planning Commission](#) meeting or you can call the city.