



AGENDA OF THE REGULAR MEETING OF  
THE CITY COUNCIL  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
February 8, 2022  
7:00 P.M.

NOTE: Due to Open Meeting Law restrictions, the City Council may be discussing agenda items for the first time. Your patience and understanding is appreciated during this process.

**CALL TO ORDER**

**In light of the status of the ongoing Covid-19 health pandemic the City of Birchwood Village is conducting its February meeting using interactive web-based technology. Pursuant to Minnesota Statutes, Chapter 13D. 021 Subdivision 1(1) the City of Birchwood is declaring that, “an in-person meeting or a meeting conducted under section 13D.02 is not practical or prudent because of a health pandemic...”**

**The meeting will be conducted using the Zoom meeting platform and the details of that are directly below for participating. If you plan to attend it is suggested that you familiarize yourself with the technology in advance. If you plan to participate than you must either 1) send your name, topic you plan to speak on, and the phone number you will be calling from to City Hall by noon the day before the meeting; or 2) join the meeting no later than 6:50pm to coordinate with the Moderator.**

**The Moderator of the meeting shall be City Administrator Andy Gonyou and all participants, except Council Members, shall have their microphones muted unless recognized by the Mayor. Public Forum shall be honored using this technology and the meeting will be broadcast via the Cable Commission like other meetings.**

Topic: Birchwood Village City Council Meeting

Time: **February 8, 2022 07:00 PM** Central Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/87372452556?pwd=RjA1RnZMWDIDR0Z0VUxwWHo0Umtndz09>

Meeting ID: 873 7245 2556

Passcode: 107363

**PLEDGE OF ALLEGIANCE**

**APPROVE AGENDA**

**OPEN PUBLIC FORUM**

**ANNOUNCEMENTS**

- A. We are social, follow us on Facebook at @BirchwoodCityHall or Twitter at @CityofBirchwood

**ADMINISTRATIVE PRESENTATION**

- A. Sheriff Report\* (pp. 5-6)
- B. Planning Commission Regular Meeting Minutes from December 16, 2021\* (pp. 7-11)

**CITY BUSINESS – CONSENT AGENDA**

- A. Approve Regular Meeting Minutes from November 9, 2021\* (pp. 13-24)
- B. Approve Special Meeting Minutes from December 27, 2021\* (pp. 25-26)
- C. Approve Regular Meeting Minutes from January 11, 2022\* (pp. 27-32)
- D. Approve Treasurer’s Report\* (pp. 33-47)
- E. Approve directional signage for Lake Links Trail split (Wildwood Ave + Cedar Ave; Hall Ave + Wildwood Ave)
- F. Approve Written Version of Policy establishing Zoning and Variance Application Intake Procedure\* (pp. 49)

**CITY BUSINESS – REGULAR AGENDA**

- A. Planning Commission Discussion  
*Time Budget: 15 Minutes*
- B. First Reading Ord. 2022-02-01, Amending Sec. 404\* (pp. 51-66)
  - a. Council Deliberation
  - b. Order Second Reading & Public Hearing*Time Budget: 10 Minutes*
- C. First Reading Ord. 2022-02-02, Amending Sec. 302.050\* (pp. 67-72)
  - a. Council Deliberation
  - b. Order Second Reading & Public Hearing*Time Budget: 10 Minutes*
- D. First Reading Ord. 2022-02-03, Repealing Sec. 301.065\* (pp. 73-75)
  - a. Council Deliberation
  - b. Order Second Reading & Public Hearing*Time Budget: 10 Minutes*
- E. First Reading Ord. 2022-02-04, Amending Sec. 302.055\* (pp. 73; 76)
  - a. Council Deliberation
  - b. Order Second Reading & Public Hearing*Time Budget: 10 Minutes*
- F. First Reading Ord. 2022-02-05, Repealing and Replacing Sec. 304\* (pp. 73; 77-79)

- a. Council Deliberation
- b. Order Second Reading & Public Hearing  
*Time Budget: 10 Minutes*
- G. First Reading Ord. 2022-02-06, Adding Sec. 310\* (pp. 73; 80)
  - a. Council Deliberation
  - b. Order Second Reading & Public Hearing  
*Time Budget: 10 Minutes*
- H. First Reading Ord. 2022-02-07, Adding Irrigation Standards\* (pp. 81-82)
  - a. Council Deliberation
  - b. Order Second Reading & Public Hearing  
*Time Budget: 10 Minutes*
- I. Council Member Reports:
  - a. Mayor Wingfield\* (pp. 83-85)
    - i. Village Hall Front Door
    - ii. Ladder Stairs to Feistner Park
    - iii. Green Ash Removal
    - iv. Street Light Inventory
    - v. Salt/Sand for Roadways  
*Time Budget: 15 Minutes*

**ADJOURN**

\*Denotes items that have supporting documentation attached.



# MEMORANDUM



**TO:** Birchwood Village City Council  
**FROM:** Andy Gonyou, City Administrator  
**SUBJECT:** Sheriff Report  
**DATE:** February 4, 2022

Dear Mayor & City Council Members: The following pages are a report of law enforcement incidents for January 2022. Per the Washington County Sheriff's Office, they are currently experiencing a technical blockage when attempting to pull an incident report. As soon as this is available, I will forward it along to the full City Council.

# Incident Summary Report PUBLIC

From:1/1/2022 12:00:00 AM To:1/31/2022 11:59:59 PM



## WASHINGTON COUNTY SHERIFFS OFFICE

### BIRCHWOOD VILLAGE - 19

1/3/2022 1:34:27 PM	WC22000273	3XXX East County Line Rd, BIRCHWOOD VILLAGE	THEFT
1/5/2022 10:32:52 AM	WC22000567	50XXX -699 HALL AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
1/5/2022 5:41:59 PM	WC22000669	XX Oakhill Ct, BIRCHWOOD VILLAGE	FOUND PROPERTY/ITEM
1/7/2022 5:42:00 AM	WC22000892	XXX WILDWOOD AVE, BIRCHWOOD VILLAGE	911 ABANDONED/HANGUP/OPEN LINE
1/7/2022 11:26:45 AM	WC22000946	18XXX -198 CEDAR ST, BIRCHWOOD VILLAGE	DIRECTED PATROL
1/8/2022 11:02:58 PM	WC22001120	54XXX -559 IRIS ST, BIRCHWOOD VILLAGE	DIRECTED PATROL
1/9/2022 12:02:27 AM	WC22001127	XXX Birchwood Ave, BIRCHWOOD VILLAGE	ASSIST OTHER AGENCY
1/9/2022 6:08:00 PM	WC22001214	3XXX EAST COUNTY LINE RD, BIRCHWOOD VILLAGE	FALL
1/11/2022 12:03:22 AM	WC22001375	30XXX -340 WILDWOOD AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
1/12/2022 7:48:24 AM	WC22001573	30XXX -340 WILDWOOD AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
1/13/2022 9:13:04 PM	WC22001838	XXX Wildwood Ave, BIRCHWOOD VILLAGE	PUBLIC WORKS CONCERN
1/14/2022 10:32:30 AM	WC22001908	XXX WILDWOOD AVE, BIRCHWOOD VILLAGE	ORDINANCE VIOLATION
1/19/2022 12:10:12 AM	WC22002549	XXX Lake Ave, BIRCHWOOD VILLAGE	LIFT ASSIST
1/20/2022 9:40:08 AM	WC22002760	10XXX -190 WILDWOOD AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL
1/25/2022 6:44:01 AM	WC22003350	XXX WILDWOOD AVE, BIRCHWOOD VILLAGE	ORDINANCE VIOLATION
1/27/2022 6:23:41 PM	WC22003772	XXX Lake Ave, BIRCHWOOD VILLAGE	MEDICAL
1/28/2022 8:07:14 AM	WC22003840	WILDWOOD AVE, BIRCHWOOD VILLAGE	TRAFFIC STOP
1/29/2022 3:57:17 PM	WC22003991	38XXX -3868 EAST COUNTY LINE RD, BIRCHWOOD VILLAGE	TRAFFIC STOP
1/30/2022 8:29:21 AM	WC22004077	60XXX -699 WILDWOOD AVE, BIRCHWOOD VILLAGE	DIRECTED PATROL

**TOTAL INCIDENTS: 19**

MEETING MINUTES (Draft)

Birchwood Planning Commission Regular Meeting

7 Zoom Virtual Meeting – 7:00 PM Meeting 12/16/2021

Submitted by Michael Kraemer – acting secretary

COMMISSIONERS PRESENT: – Andy Sorenson – Chairman, Ryan Hankins – Vice Chairman, Michelle Maiers-Atakpu, Joe Evans, Michael Kraemer.

COMMISSIONERS ABSENT:

OTHERS PRESENT: None

1. CALL TO ORDER Meeting called to order by Chairman Andy Sorenson at 7:02 PM.
2. PUBLIC FORUM – no one present
3. APPROVE AGENDA
  - a. Motion by Maiers-Atakpu, 2<sup>nd</sup> by Kraemer to approve agenda as listed. Vote Yes – 5, No – 0. Motion passed.
4. Agenda Item A – City Code Review – Focus: Shoreland and Small Pre-existing Lot Criteria Comparison.
  - a. Discussion
    - i. Discussion centered around a spreadsheet that compared City Codes related to shoreland and small pre-existing lot criteria applications in neighboring communities against the MN DNR Model Shoreland Ordinance. Ordinances analyzed included, White Bear Lake, White Bear Twp., Mahtomedi, Birchwood, Excelsior, and DNR.
    - ii. The Planning Commission discussion focused on Code topics that appeared to be re-appearing in the Birchwood Planning Commission Variance Request process. The Planning Commission elected to re-visit particular Code elements to investigate whether the existing Code was consistent in supporting the City Comprehensive Plan or may be out of step and needed changing.
    - iii. The Planning Commission took an advisory vote on each discussion topic to determine which Code elements warranted additional investigation and review. Following additional review it is the Planning Commission’s intention to offer input on which Code topics should be sustained as is and which Code topics should be revised and reviewed by Council for consideration and adoption.
  - b. Topics and Actions.
    - i. TOPIC: Require CUP shoreland landscaping within 50’ of OHW or between the OHW and the top of the Bluff Line, which ever is greater.

1. *\*CONSIDER ADDING LANGUAGE to Section 302.055 - 2.d.7- Vegetation Alterations on Lots Abutting Water. Add: c. - Require Conditional Use Permit for landscaping plan within 50' of OHW or between OHW and top of bluff line whichever is greater. (This may help regulate situations where property owners tend to use landscaping plans as de-facto slope grading, shoreland benching, retaining walls or fence installation permits) Landscaping plan should include detailed grading plan to one-foot contours, planting schedule and location map defining quantities and locations of plantings and landscaping features. Planting schedule should include common and botanical names, the sizes, root specifications, quantities, and special planting and maintenance conditions and requirements. Effort should be made to encourage use of local species of plantings and ground cover. CONSIDER ADDITIONAL LANGUAGE: In steep slope areas to ensure landscaping plantings take and prevent erosion, consideration may be given to requiring escrow in City's name for a one growing season period the value equivalent to at least 50% of landscape project value. Escrow would be released upon inspection and acceptance of project by City Engineer.*
  2. Planning Commission Action: Advisory vote to support further investigation and consider Code revision. Yes – 5, No
- ii. TOPIC: Allow retaining walls within 50' of OHW to correct erosion.
1. *CONSIDER CHANGING LANGUAGE \* 302.015 STRUCTURE LOCATION REQUIREMENTS. Item 4.b - Retaining Wall Setbacks. Front, back, side street and other lot line setbacks requirements shall not apply to retaining walls except that the ordinary high water level setback requirement to: "Retaining walls may be permitted up to the OHW as determined necessary by the City Engineer to correct/prevent shoreline and/or bluff erosion issues. No fences or retaining walls shall be allowed within the OHW. No fences or retaining wall shall be allowed to extend into wetlands or required wetland buffer, or extend below the OHW of stream or water quality detention ponds. In areas along any waterfront, efforts should be made to encourage the use of natural stone and/or landscaping plantings for retaining walls and landscaping to stabilize banks and shorelines and prevent erosion of proposed and existing slopes." CONSIDER MODIFYING LANGUAGE to include: "Retaining walls taller than 4' must be designed by Certified Professional Engineer."*



2. Planning Commission Action: Advisory vote to support further investigation and consider Code revision. Yes – 5, No
- iii. TOPIC: Lot width in Shoreland area.
1. *RETAIN CURRENT CODE for Lot Area = 15000 with pre-existing lot credit of 60% of code @ 9000sf. CONSIDER MODIFYING language in 302.010.2- Minimum lot width at front building line and at the ordinary high water level of any lake or wetland; from current Lot Width code of 80' and pre-existing credit of 60% of code = 48', to Lot Width of 75' similar to DNR with pre-existing lot credit of 60% to 45' respectively. This would better accommodate many of the pre-existing 45' wide Birchwood lots to better comply with lot width code. This discussion should be coordinated with the topic of allowing "pre-existing" single family homes to be replaced within their existing footprint.*
  2. Planning Commission Action: Advisory vote to support further investigation and consider Code revision. Yes – 5, No – 0.
- iv. TOPIC: Modify Lot Impervious Surface Allocation
1. *RETAIN goal of 25% impervious. RETAIN Definition in Section 300.020 DEFINITIONS for item 23. Impervious Surface and EXCEPTIONS 1 - Open decks.. and 2: Approved surfaces.... CONSIDER ADDING following language change in Section 302.050.b. – **Mitigation efforts to offset impervious surfaces will be allowed up to 35% through the CUP permit process.** (or) CONSIDER ADDING following language to Section 302.050 ADD - 2. IMPERVIOUS GOALS FOR PRE-EXISTING LOTS. For lots pre-existing at 1/1/1975, less than 15000sf, the allowable impervious percentage should be pro-rated as follows: =  $(25\% + (15000 - \text{Lot Area} \times 0.0011))$ , I.e. a 6000 sf lot would have an allowable impervious percentage of 35%. This sliding scale would help provide for the construction of quality structures in smaller pre-existing lots without penalizing them for previous code or platting shortcomings and still achieve the goal of stormwater treatment through engineered treatment BMP's.*
  2. Planning Commission Action:
    - a. Advisory vote to support further investigation and consider Code revision. Yes – 5, No – 0.
    - b. *PC requested clarification of the question on whether Code Item 302.050.1.b requires mitigation (storage and treatment) down to zero % or down to only the difference between the proposed impervious percentage and the goal of 25%.*

- v. TOPIC: Shoreland Setback of Structure from OHW.
  - 1. *Section 302.020 - RETAIN current shoreland setbacks on WBL/Hall's Marsh/wetlands = 50', Lost Lake = 75' CONSIDER ADDING language to Shoreland Setback - Section 302.020 to allow water side of principle structure to within 5' of prevailing homes water feature side "set back" or a minimum 50' whichever is less. This would allow matching frontage of homes on adjacent lots and not penalizing lots for adjacent pre-existing structure placement restricting view.*
  - 2. Planning Commission Action: Advisory vote to support further investigation and consider Code revision put on hold until next meeting. Yes – 5, No – 0.
- vi. TOPIC: Maximum Structure Height
  - 1. *CONSIDER changing AVERAGE EXPOSURE HEIGHT to 35' dimension in light of new energy code, open floor plans and building methods using trusses in place of scarcity of legacy large dimension lumber. Use of trusses to span open floor plans result in trusses ranging anywhere from 18" to 48" deep. These new construction techniques (trusses) coupled with desired 9' ceilings (I.e.. 2'+9'+2'+9'+10'roof trust = 32') can easily exceed the 30' EXPOSURE HEIGHT on even a flat lot.*
  - 2. Planning Commission Action: Advisory vote to support further investigation and consider Code revision. Yes – 4, No – 1.  
(Sorenson dissenting vote.)
- vii. TOPIC: Due to meeting time constraints the following topics on the worksheet for consideration were tabled until the next meeting.
  - 1. Topics
    - a. Front Yard Setbacks – Principal Structure
    - b. Side Yard Setbacks – Principal Structure
    - c. Existing Non-Conforming Use Replacement
    - d. Legacy Tree Protection/Replacement Policy
  - 2. Planning Commission Action: Table until next meeting. Yes – 5, No – 0.

5. Agenda Item C – Variance Worksheet Review and Discussion

- a. Review and Discuss
  - i. Chairman Sorenson requested the discussion around the Birchwood Village – Variance Findings Form be tabled until the next meeting.
  - ii. All Commissioners were asked to review the form for efficacy and usefulness prior to next meeting.
- b. Planning Commission Action:





**CITY OF BIRCHWOOD VILLAGE  
207 BIRCHWOOD AVENUE  
BIRCHWOOD, MINNESOTA**

**MINUTES OF THE CITY COUNCIL MEETING  
VIA TELECONFERENCE  
NOVEMBER 9, 2021, 7:00 P.M.**

**MEMBERS:**

Mary Wingfield	Mayor
Jon Fleck	Councilmember
Mark Foster	Councilmember
Justin McCarthy	Councilmember
Kevin Woolstencroft	Councilmember

**STAFF:**

Andy Gonyou	City Administrator
H. Alan Kantrud	City Attorney
Doug Danks	City Planner

**GUESTS:**

Ryan Hankins	Vice Chairman, Planning Commission
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Minutes prepared by Anh Nguyen of Minutes Solutions Inc. from an audio recording.

**1. CALL TO ORDER**

In light of the status of the ongoing COVID-19 health pandemic, the City of Birchwood Village is conducting its November 2021, meeting using interactive web-based technology. Pursuant to *Minnesota Statutes, Chapter 13D.021 Subdivision 1(1)*, the City of Birchwood Village is declaring that, "an in-person meeting or a meeting conducted under *section 13D.02* is not practical or prudent because of a health pandemic...".

Mayor Wingfield called the meeting to order at 7:00 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

Mayor Wingfield requested the addition of the following items to the agenda:

- Leaf Pickup
- Village Hall Update
- Fence Update
- Tree Update
- Water Meter Tower Update
- Grotto Drainage

Councilmember McCarthy requested the addition of the following item to the agenda:

- A motion to approve administrative access for the Metro INET conversion

**On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to approve the agenda, as amended. All in favor; motion carried.**

**4. OPEN PUBLIC FORUM**

There were no comments for the open public forum.

**5. ANNOUNCEMENTS**

- A. Social Media:** Follow Birchwood Village on Facebook/Twitter and/or register for the e-mail list.
- B. Leaf Pickup:** Leaf pickup is still ongoing for the week of November 8, 2021. Residents are encouraged to contact City Hall or the Mayor's office to schedule leaf pickup.
- C. Kayaks:** The kayaks were to be removed from the kayak rack by October 31, 2021. There are still kayaks remaining. Residents are reminded to remove the kayaks.

**6. ADMINISTRATIVE PRESENTATION**

- A. Sheriff Report:** A report of law enforcement incidents and citations for October 2021, was provided for the Council's review.
- B. Planning Commission Meeting Minutes:** The minutes of the September 23, 2021, and the October 7, 2021, Planning Commission meetings were provided for the Council's review.

**7. CITY BUSINESS – CONSENT AGENDA**

- A. Approval of the Treasurer's Report**
- B. Approval of Resolution 2021-26, Adopting CPU and Sewer Plan**
- C. Transfer \$20,000 from Special Revenue Projects to cover all special projects in parks for the year (including signage, buckthorn removal, rentals, weed killer, tree removal, etc.)**
- D. Zero Out/Transfer \$40 from the warming house fund to the general fund.**
- E. Zero Out/Transfer \$2,119.89 from the sewer rehab debt to the sewer fund. Both funds have been inactive for several years.**

**On a motion made by Councilmember Woolstencroft, seconded by Councilmember Fleck, it was resolved to approve the consent agenda as presented. All in favor; motion carried.**

**8. CITY BUSINESS – REGULAR AGENDA**

**A. Planning Commission Discussion**

- a. **Review City Planner Doug Danks' Contract:** Mayor Wingfield reported that several Planning Commission members contacted her to withdraw their endorsement of Doug Danks as the City Planner due to a number of issues.

These issues include:

Issuing a building permit for a garage one foot away from the neighbor's property line as a continuation of a non-conforming use. The same application from the property in question was received in 2005, in which the Council unanimously denied a variance going six feet away from the property line. This was provided to Doug Danks and demonstrated precedent that it was not supported.

More recently, Doug Danks authorized the City Administrator to issue a building permit that was ultimately not issued after seeking a more thorough analysis from the City Engineer, Steve Thatcher. This has cost the city of Birchwood Village a considerable amount of time and puts the city at risk of a lawsuit, given that the city's codes have not supported issuing a permit in contrast to Doug Danks suggestion that a permit be issued. The Council has never allowed a permit to move forward such as Doug Danks has for the property in question. Based on the Council's decision to deny the variance in 2005, there is no basis for the issuance of the more recent building permit.

In addition, Doug Danks suggested to the Planning Commission that a new building on Lake Avenue does not need to comply with code and can start with a six feet distance from the property lines on a complete rebuild.

Mayor Wingfield reiterated that at no point in her term as mayor or Councilmember Fleck's term as mayor, dating back to 2006, was it suggested that this would be allowed and is not in line with facts or precedent with the Council's actions.

The Council opened the floor to Doug Danks for any remarks.

Doug Danks reported that he received an invitation for the Council meeting held on November 9, 2021, with no indication of the agenda. He has not had any conversations with Planning Commission members that would indicate concerns regarding his role as City Planner.

Doug Danks noted that public records are very clear regarding his actions, his findings, the basis of the findings, and his points as expressed in Council meetings and private workshop meetings. He stated that Mayor Wingfield's claims do not align with public records.

Doug Danks noted that he has never received the variance application from 2005 and does not have access to city files for this information. The application was first brought to his attention when it was published in the City Engineer's report the previous week. He reiterated that he did not have the benefit of access to this information and that it would have contributed to making an informed decision.

In regard to the recent application for 117 Wildwood Avenue, Doug Danks explained that he applied his history of how the particular language for *ordinance 301.050* was applied to decisions in past Planning Commissions.

Doug Danks reported at least two garage projects, one free-standing detached garage and another garage attached to the principal structure, where the Planning Commission found that although they were pre-existing non-conforming structures, they were allowed to expand the structures based on the language of the ordinance. Not only did the Planning Commission approve the projects, but building permits were issued and the projects were built to completion under the watch of Mayor Wingfield.

In terms of pre-existing impervious surfaces being applied to the expansion of structures on-site and not increasing impervious surface areas, that too has precedent in Doug Danks' history on the Planning Commission. On this basis, Doug Danks gave the approval for a permit for 117 Wildwood Avenue to expand their pre-existing non-conforming detached garage in a surface area that was equivalent to the amount of pre-existing impervious surface.

In light of the meeting between the resident, Mayor Wingfield, and City Attorney Alan Kantrud, Doug Danks was informed that the resident would be expanding upon the previous structure of the garage, however, it was determined that there was a smaller footprint for the existing shed structure in that location.

The applicant indicated that the survey company had confirmed the footprint of the area of the existing impervious surfaces and was substantiated in a new submittal from the survey company and was the basis for Doug Danks decision to allow a garage expansion of 24 feet by 20 feet, which was the equivalent surface area of the impervious surface that was documented in the application.

In regard to the 469 Lake Avenue project, Doug Danks met with the applicant, their architect, and the homeowner on July 12, 2021, to review a conceptual site plan provided by the architect and discuss general parameters for the project based on the conceptual site plan. It was not an application, floor plans or what was received by the Council and the Planning Commission in September 2021, to be reviewed.

Doug Danks stated that he was clear with the applicant that the required setbacks were 50 feet from the ordinary high water line, 40 feet from Lake Avenue, and 10 feet from each side yard. The applicants mentioned that they reviewed the zoning ordinances, which noted a provision to allow reduced setbacks for undersized lots.

Doug Danks informed the applicant that the City Council or Planning Commission may have taken that into account at one time, but the ordinance language was changed, and he did not know how the new Planning Commission would interpret



the revised language. He suggested that the applicant proceed if they feel they are justified and have the Planning Commission provide some guidance.

Doug Danks reiterated that variances are being passed through the Planning Commission and City Council without any guidance or feedback, and that the process is not serving the residents of Birchwood Village.

Mayor Wingfield noted that the city code states that under pre-existing structures or uses, there is an obligation that when pre-existing structures of a non-conforming structure is destroyed by fire or other peril to the extent that greater than 50% of the estimated market value at the time of the damage, and no building permit has been applied for within 180 days when the property is damaged, then your reconstruction must conform to the provisions of the zoning code.

While there is an exception, it does not apply to the application in question because there is no previous granted variance to that property. The provisions were ignored as the previous building was down for almost one and a half years.

Mayor Wingfield recommended severing the relationship with Doug Danks as City Planner due to his various interpretations of city code, even after they were amended in 2019 for clarity, and the threat of legal peril due to his interpretations.

**On a motion made by Councilmember Fleck, seconded by Mayor Wingfield, it was resolved to sever the relationship with Doug Danks as City Planner for the city of Birchwood Village. Councilmember Foster and Councilmember McCarthy voted no; motion carried.**

- b. Permanent Addition of Planning Commission Questions and Concerns to Agenda:** This will provide an opportunity for a representative of the Planning Commission to address any concerns or obtain guidance from the Council.

Ryan Hankins, Vice Chairman of the Planning Commission, reported that the Planning Commission had discussed making the Birchwood Village ordinances more aligned with what the Council allows in terms of variances. A representative from the Rice Creek Watershed District provided the Planning Commission with some feedback regarding impervious surface restrictions.

The Planning Commission is requesting guidance from the Council regarding how to organize proposals; specifically whether proposals should be packaged together for review by the Council, or as singular applications. The Planning Commission also requested feedback regarding the types of applications that the Planning Commission should or should not be allocating time towards.

Ryan Hankins noted that the city of Birchwood Village should consider separating impervious surfaces from open spaces in regard to density issues.

Mayor Wingfield agreed that implementing parameters on the maximum number of impervious surfaces would be beneficial to mitigate any issues.

Councilmember Fleck expressed concern regarding a building permit that was issued for a red-tagged structure 419B under Doug Danks approval. Ryan Hankins was not able to provide any insight on the structure in question.

Councilmember Woolstencroft reported that the city of Mahtomedi is reconsidering pervious surfaces because of failure issues with manufacturers.

Councilmember McCarthy advised the Planning Commission to amend the ordinance as they see fit, to the best of their ability, and to provide these to the Council for review. Councilmember McCarthy suggested that any materials the Planning Commission is considering should be submitted to the City Administrator to be included in the Council meeting agenda.

The Council agreed to include a permanent 15-minute discussion with the Planning Commission on the agenda for future Council meetings.

Further discussion was deferred to the next workshop.

- c. **Use of City Council Liaison:** Councilmember Foster will act as City Council Liaison for the Planning Commission.

## **B. Lake Links / Hall Avenue Update**

- a. **Engage City Engineer for Design Approval and Obtain Bid from Schifsky:**  
The finances are being transferred from the funds that the city of Mahtomedi did not use in full and, through the legislative process, created an opportunity for the city of Birchwood Village in the amount of \$52,000. This includes maintaining the shoulders on Hall Avenue to prevent vegetation growing into the street.

Mayor Wingfield suggested engaging the City Engineer, Steve Thatcher, to provide some direction to Schifsky Companies regarding the repairs to the shoulders. Schifsky Companies reported that the repairs of the shoulders on Hall Avenue will cost \$30,000. The remaining balance would be allocated towards paint.

Authorization to transfer the unused funds from the city of Mahtomedi to the city of Birchwood Village is pending.

**On a motion made by Councilmember Fleck, seconded by Councilmember McCarthy, it was resolved to engage the City Engineer, Steve Thatcher, at a cost not to exceed \$1,000 to provide Schifsky Companies with a report detailing the scope of work for the correction of the shoulders on Hall Avenue. All in favor; motion carried.**

## **C. Wildwood Lift Station**

- a. **Authorize City Engineer to Draft Replacement Plans:** Mayor Wingfield reported no success in obtaining grants. Funding for the city of Birchwood Village is still being explored; however, the legislature would provide funding via a low interest loan instead of a grant.

A meeting between Mayor Wingfield and the federal government is scheduled for the week of November 15, 2021.

Steve Thatcher is projecting an engineering fee of 10% for the Wildwood lift station project. The entire project will cost approximately \$50,000 with regard to engineering costs. Mayor Wingfield noted that several other engineering firms charge a 35% engineering fee plus costs.

**On a motion made by Councilmember Fleck, seconded by Councilmember McCarthy, it was resolved to engage the City Engineer, Steve Thatcher, at a cost not to exceed \$5,000 to draft replacement plans for the Wildwood lift station. All in favor; motion carried.**

- b. **OSHA Compliance:** Repairs to the Wildwood lift station would ensure compliance with OSHA and prevent corrosion from the obsolete electronics below ground.
- c. **Emergency Storage:** Mayor Wingfield reported that there is no emergency storage in the event that the sewage pump in the lift station fails. This requires immediate repair.

**D. Mayor Wingfield and Councilmember McCarthy Updates**

- a. **Meeting with Rice Creek Watershed District (RCWD) at Feistner Beach:** Mayor Wingfield and Councilmember McCarthy met with a project manager from the Rice Creek Watershed District.

It was reported that the landowner had undertaken some land grading that no longer made the project feasible. The project manager indicated an opportunity to do a smaller project on Birchwood Village's portion of Feistner Beach.

Councilmember Fleck expressed concern regarding the landowner's decision to grade and manipulate the land in such a way that the project is no longer feasible without consultation with the Rice Creek Watershed District. The joint project between Washington County, Birchwood Village and the landowner at 15 Birchwood Lane will not continue.

- b. **RCWD Board Meeting on October 27, 2021:** Councilmember McCarthy reported that the RCWD Board continues to alter their plans.

Bud Jensen and Ruth Jensen attended a workshop held by the RCWD Board on November 8, 2021, and reported that the RCWD is planning a future drawdown; the Council has explicitly expressed to the RCWD that a resolution was passed not to permit a drawdown.

**Braun Intertec Study:** The RCWD Board provided an engineer's report from HEI stating that there is no sediment in Hall's Marsh; it is clean water as Priebe Lake is the reservoir for Hall's Marsh.

The Council noted that the HEI report does not address what is in the Hall's Marsh water beyond silt and sediment, and the quality of the water. Mayor Wingfield has contacted Braun Intertec to conduct a water sampling of Hall's Marsh on several

occasions but has not received a response. If a response is not received by the middle of January 2022, the Council will consider alternative environmental consulting firms.

The Council agreed to engage Steve Thatcher to review the preliminary report from the Braun Intertec study once completed.

Mayor Wingfield suggested using the dock fees to commission the water sampling study. Further discussion was deferred for consideration at a later time.

*ACTION – Mayor Wingfield will provide City Administrator, Andy Gonyou, with any updates regarding the Braun Intertec study for distribution to the Council for review.*

- c. Appointment of City Liaisons for Hall’s Marsh:** Councilmember McCarthy recommended appointing Bud Jensen and Ruth Jensen to the Hall’s Marsh Task Force. Sandy Berkley and Gabe Berkley have also expressed interest in joining the Task Force.

**On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to appoint Bud Jensen, Ruth Jensen, Sandy Berkley and Gabe Berkley to the Hall’s Marsh Task Force. All in favor; motion carried.**

*ACTION – The City Administrator, Andy Gonyou, will inform residents of Birchwood Village about the Hall’s Marsh Task Force in the next newsletter and via a mass e-mailing. A request will be made for any interested residents to join the Task Force.*

## **E. Councilmember Reports**

### **a. Mayor Wingfield**

- i) Feistner Beach and Dock Association:** Mayor Wingfield confirmed that Feistner Beach has a boat slip available to accommodate a single boat. This provides an alternative to the Dock Association.

Mayor Wingfield reiterated that the Dock Association should be informed of the potential cost savings for insurance if they pursue committee status and operate in conjunction with the city of Birchwood Village. The city has insurance coverage city wide, including the boat slip at Feistner Beach, at no additional cost to its policy.

The City Attorney, Alan Kantrud, confirmed that the city would not be able to provide insurance coverage to an LLC if the Dock Association maintained its independence as a private entity.

Alan Kantrud confirmed that a boat slip with less than four boats is not regulated as long as the boats are not commercial. He added that as long as there is no dock, it will not be regulated by the Washington Conservation District. He advised that the sheriff’s office regulates the buoys and bells, not the Washington Conservation District.

Councilmember Fleck suggested exploring a project to create a holding space for the county water runoff in lieu of a single boat slip at Feistner Beach. He recommended a meeting with homeowners to discuss the project.

**On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to approve the Dock Association to operate the boat slip at Feistner Beach on the condition that the boat slip is filled, in addition to filling all other boat slips, and the Dock Association provides the landing to access the boat slip, and is managed in the same manner as the other boats at the easement. All in favor; motion carried.**

- ii) **Extent of City Permit at 15 Birchwood Lane:** Mayor Wingfield expressed concern regarding two six-inch PVC pipes that were draining directly into the easement from the property. The property owner claims to have removed the pipes.

Mayor Wingfield reported work on the property that requires oversight, including dirt piles in close proximity to the lake with no silt fencing and grading in close proximity to the lake.

Mayor Wingfield noted that the Rice Creek Watershed District expressed concern regarding the grading as well. She suggested that Steve Thatcher review the projects to ensure they are in compliance with city code and in conformance with the applications.

The letter from Rice Creek Watershed District states that the district technician and inspector was on-site at 15 Birchwood Lane on November 5, 2021 and confirmed more than 10,000 square feet of land being disturbed.

Since it is within 300 feet of the lake, an after-effect permit is required for erosion and sediment control planning and will be subject to additional fees per the city code. Rice Creek Watershed District requested the completed permit application be submitted by November 18, 2021.

**On a motion made by Mayor Wingfield, seconded by Councilmember Fleck, it was resolved to engage City Engineer, Steve Thatcher, to review the property at 15 Birchwood Lane and ensure it is in compliance with the written agreement drafted by City Attorney, Alan Kantrud, and is in compliance with the permits issued in conjunction with any requirements from the Rice Creek Watershed District. Councilmember McCarthy abstained and Councilmember Foster voted no; motion carried.**

- iii) **Ice Rink Board Replacement:** Councilmember Woolstencroft noted that the boards are likely treated and cannot be painted for at least one year. The Council agreed to monitor the boards for one year.

- iv) **Leak Pickup:** Mayor Wingfield suggested that an RSVP be required for leaf pickup in the spring but not be required for leaf pickup in the fall. All leaf piles left outside during the fall season will be picked up as if RSVP'd.

*ACTION – Mayor Wingfield will inform Mow Joe to pick up all leaf piles left outside and include them in the current RSVP list.*

*ACTION – The City Administrator, Andy Gonyou, will publish a notice to residents stating that no RSVP is required for leaf pickup in the fall; but an RSVP will be required for additional leaf pickup in the spring.*

- v) **Village Hall Update:** The supplies to repair the electrical work in the village hall are on back order for two or three months.
- vi) **Fence Update:** The fence at the water meter tower will not be erected until the spring of 2022.
- vii) **Tree Update:** The spruce trees for the park will not be planted until the spring of 2022.
- viii) **Water Meter Tower Update:** Mayor Wingfield reported 15 properties that are non-compliant and have not made an appointment. She suggested providing Shelly Rueckert from St Anthony Village with the authorization to determine the appropriate fee for non-compliance as an effort to recover costs by the city of Birchwood Village.

Mayor Wingfield noted that some residents have different sized water meters. She suggested that the cost for overages, and anything over and above the cost of installation by the city, be borne by the resident.

Alan Kantrud noted that he received an objection to the water meter tower from a resident due to concerns regarding microwaves and health and safety.

**On a motion made by Councilmember McCarthy, seconded by Mayor Wingfield, it was resolved to approve the cost for overages, and anything over and above the cost of installation by the city, be borne by the resident. All in favor; motion carried.**

- ix) **Grotto Drainage:** The grotto drainage for the section between Wildwood Avenue and Hall Avenue has been brought to Council in the past but there was no consensus on the issue. Mayor Wingfield suggested engaging Steve Thatcher to provide next steps based on previous plans that did not take effect.

*ACTION – Mayor Wingfield will obtain guidance from Steve Thatcher on next steps regarding the grotto drainage based on previous discussions.*

**b. Councilmember McCarthy**

- i) **Metro INET Conversion Update:** Councilmember McCarthy noted that the old e-mails have been successfully transferred to the new accounts under Microsoft 365. The accounts are functioning well. The setup of OneDrive for shared drive access is pending a registry key from Metro INET. A backup solution is still required.

**On a motion made by Councilmember McCarthy, seconded by Mayor Wingfield, it was resolved to approve Councilmember McCarthy and Ryan Hankins to obtain administrative access for the Metro INET conversion. All in favor; motion carried.**

- ii) **Councilmember E-mails:** Councilmember McCarthy noted that the cost for a single e-mail account for city staff was reduced to \$5 per month with the Metro INET conversion to Microsoft 365. The option of a @cityofbirchwood.com e-mail account is available for Councilmembers as well. He noted that e-mail forwarding is possible.

The e-mail accounts will serve as public record, which the city will have ownership of and can easily gain access to when needed. Web application versions of Microsoft Office programs are also available. Full access desktop versions of Microsoft Office programs are available for a monthly e-mail account fee of \$12 per month.

The Council agreed that all Council members will receive an official @cityofbirchwood.com e-mail address.

**On a motion made by Councilmember McCarthy, seconded by Councilmember Foster, it was resolved to approve resolution 2021-25 authorizing the City Administrator to obtain Microsoft 365 accounts for all City Council members. All in favor; motion carried.**

- iii) **Maintenance Code:** Mayor Wingfield advised Council members review the revised maintenance code provided by Councilmember McCarthy and send any concerns to Andy Gonyou to be discussed at the next Council meeting in December 2021.

*ACTION – Council members will review the revised maintenance code as amended by Councilmember McCarthy and provide feedback to City Administrator, Andy Gonyou, for inclusion in the December 2021, City Council meeting.*

**F. City Administrator Report**

**a. Digitization of Sanitary Sewer Records:**

**On a motion made by Mayor Wingfield, seconded by Councilmember Woolstencroft, it was resolved to approve White Bear Township to digitize the city of Birchwood Village’s sanitary sewer maps at a cost not to exceed \$575. All in favor; motion carried.**

**b. November Workshop Scheduling:**

- i) Review Park Improvements/Paths**
- ii) Define Impervious Surface**
- iii) Goals for 2022**
- iv) RCWD, DNR and City Commissioner Meeting Re: Hall's Marsh**

*ACTION – The City Administrator, Andy Gonyou, will arrange a Google meeting in December 2021, between the Council, RCWD, DNR, and the City Commissioner.*

**9. NEXT MEETING**

The next Council meeting will be held at a date and time to be determined.

**10. ADJOURNMENT**

**On a motion made by Councilmember Woolstencroft, seconded by Councilmember Foster and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 9:40 p.m. by Mayor Wingfield.**

**DISCLAIMER**

The above minutes should be used as a summary of the motions passed and issues discussed at the meeting of the members of the Birchwood Village City Council. This document shall not be considered to be a verbatim copy of every word spoken at the meeting.

\_\_\_\_\_  
Mayor Mary Wingfield

\_\_\_\_\_  
City Administrator Andy Gonyou

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**CITY OF BIRCHWOOD VILLAGE  
207 BIRCHWOOD AVENUE  
BIRCHWOOD, MINNESOTA**

**MINUTES OF THE SPECIAL CITY COUNCIL MEETING  
VIA TELECONFERENCE  
DECEMBER 27, 2021, 7:00 P.M.**

**MEMBERS PRESENT:**

Mary Wingfield	Mayor
Jon Fleck	Councilmember
Mark Foster	Councilmember
Kevin Woolstencroft	Councilmember

**MEMBERS ABSENT:**

Justin McCarthy	Councilmember
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**STAFF:**

Andy Gonyou	City Administrator
H. Alan Kantrud	City Attorney

**GUESTS:**

Kyle Hunt	CEO and President, Kyle Hunt & Partners
Brent Stevens	Project Manager, Kyle Hunt & Partners
David Snyder	Attorney, Johnson and Turner
Michael Sharratt	Sharratt Design & Company

**1. CALL TO ORDER**

In light of the status of the ongoing COVID-19 health pandemic, the City of Birchwood Village is conducting its December 2021, meeting using interactive web-based technology. Pursuant to *Minnesota Statutes, Chapter 13D.021 Subdivision 1(1)*, the City of Birchwood Village is declaring that, "an in-person meeting or a meeting conducted under *section 13D.02* is not practical or prudent because of a health pandemic...".

Mayor Wingfield called the meeting to order at 7:00 p.m.

**2. CITY BUSINESS – REGULAR AGENDA**

**A. Variance Case 21-06-VB**

- a. Mayor Wingfield:** Summarized prior updates to Variance Case 21-06-VB (469 Lake Avenue) and the purpose of the Special Meeting to determine next steps in considering this variance application.
- b. City Council & City Attorney:** Deliberated the status of the variance application and options for further decision making.

**On a motion made by Councilmember Fleck, seconded by Councilmember Woolstencroft, it was resolved to deny Variance Application 21-06-VB. AYES: WINGFIELD, FLECK, WOOLSTENCROFT; NAYES: FOSTER. Motion carried.**

- i. **Michael Sharrat, David Snyder (Applicant Representatives):** Summarized prior updates to Variance Case 21-06-VB.
- ii. **Dr. Jim Barthel (Applicant):** Explained the purpose of the proposed project.

**On a motion made by Mayor Wingfield, seconded by Councilmember Woolstencroft, it was resolved to amend the previously adopted motion with the following information to detail the City Council's rationale for denying Variance Application 21-06-VB. AYES: WINGFIELD, FLECK, WOOLSTENCROFT; NAYES: FOSTER. Motion carried.**

- i. The basis for the denial is:
  - 1. That the City Engineer reviewed the submitted plans, and the submitted plans do not allow for mitigating of the impervious surface as proposed, and that is because the water table is near the surface seeing as the house is near the lake, and this does not allow sufficient retention of water.
  - 2. The basis that the City Council had to act expeditiously at this point because the matter had been tabled in October, but based on their attorneys' actions in December, it became clear that the matter as no longer being asked to be tabled by the applicant.

**3. ADJOURNMENT**

**On a motion made by Councilmember Fleck, seconded by Councilmember Woolstencroft and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 7:53 p.m. by Mayor Wingfield.**

**DISCLAIMER**

The above minutes should be used as a summary of the motions passed and issues discussed at the meeting of the members of the Birchwood Village City Council. This document shall not be considered to be a verbatim copy of every word spoken at the meeting.

\_\_\_\_\_  
Mayor Mary Wingfield

\_\_\_\_\_  
City Administrator Andy Gonyou

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**CITY OF BIRCHWOOD VILLAGE  
207 BIRCHWOOD AVENUE  
BIRCHWOOD, MN**

**MINUTES OF THE CITY COUNCIL MEETING  
VIA TELECONFERENCE  
JANUARY 11, 2022, 7:00 P.M.**

**MEMBERS:**

Mary Wingfield	Mayor
Jon Fleck	Councilmember
Mark Foster	Councilmember
Justin McCarthy	Councilmember
Kevin Woolstencroft	Councilmember

**STAFF:**

Andy Gonyou	City Administrator
H. Alan Kantrud	City Attorney

**GUESTS:**

Ryan Hankins	Vice Chairman, Planning Commission
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Minutes prepared by Anh Nguyen of Minutes Solutions Inc. from an audio recording.

**1. CALL TO ORDER**

In light of the status of the ongoing COVID-19 health pandemic, the City of Birchwood Village is conducting its January 2022, meeting using interactive web-based technology. Pursuant to *Minnesota Statutes, Chapter 13D.021 Subdivision 1(1)*, the City of Birchwood Village is declaring that, "an in-person meeting or a meeting conducted under section 13D.02 is not practical or prudent because of a health pandemic...".

Mayor Wingfield called the meeting to order at 7:01 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA**

Mayor Wingfield requested the addition of the following item to the agenda:

- League of Minnesota Cities Seminars

Councilmember McCarthy requested the addition of the following item to the agenda:

- 60-Day Extensions for Zoning Applications

**On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to approve the agenda, as amended. All in favor; motion carried.**

4. **OPEN PUBLIC FORUM**

**Barton Winter, 1 Five Oaks Lane**, expressed concern regarding areas the ice rink.

5. **ANNOUNCEMENTS**

A. **Ice Rink:** The ice rink will remain open until February 28, 2022.

B. **Social Media:** Follow Birchwood Village on Facebook @BirchwoodCityHall or on Twitter @CityofBirchwood.

C. **City Workers:** Mayor Wingfield reported the passing of Birchwood Village's former snowplow operator, Jerry Pierre

She noted that the current snow removal contractor is requesting feedback from Councilmembers regarding the quality of their snow removal services.

She expressed gratitude to Scott Howe and John Manship for their continued work for the City of Birchwood Village.

D. **STS Staffing:** STS Staffing pulled the old water meters apart and separated any iron from the stainless steel and brass. The City of Birchwood Village will be receiving a cheque from the recycling company for the recyclable parts.

E. **Park Signage:** Sara Markoe Hanson from the White Bear Historical Society has been working on signage for the next grant application due on January 14, 2022.

6. **ADMINISTRATIVE PRESENTATION**

A. **Sheriff Report:** A report of law enforcement incidents and citations for December, 2021, was provided for the Council's review.

B. **2022 Schedule of Meetings and Holidays:** A schedule of regular Council meeting dates and official city holidays for 2022 was included in the meeting package.

C. **Planning Commission Regular Meeting Minutes:** The minutes of the October 28, 2021, Planning Commission meeting was provided for the Council's review.

7. **CITY BUSINESS – CONSENT AGENDA**

A. **Approval of the Regular Meeting Minutes:** The meeting minutes of the December 14, 2021, regular Council meeting was provided for the Council's review and approval. The meeting minutes of the November 9, 2021, regular Council meeting will be provided for review and approval at the next Council meeting in February 2022.

B. **Approval of the Treasurer's Report:** The Treasurer's Report for the period ending January 6, 2022, was provided for the Council's review and approval.

C. **Approval of Resolution 2022-01, Designating White Bear Press as the Official Newspaper for Publication**

**D. Approval of Resolution 2022-02, Naming U.S. Bank and the 4M Fund as the Official Depositories of Municipal Funds**

**On a motion made by Councilmember Woolstencroft, seconded by Councilmember McCarthy, it was resolved to approve the consent agenda as presented. All in favor; motion carried.**

**8. CITY BUSINESS – REGULAR AGENDA**

**A. Planning Commission Discussion**

- a. Ryan Hankins reported ongoing discussions to streamline the city code. The Planning Commission is considering moving away from variances on the lower limit request to using conditional permits. A package will be provided for the Council's review at the next Council meeting in February 2022.

**B. Second Reading of Ordinance 2021-12-01, Section 617 Public Lake Tracts**

- a. **Public Hearing:** There were no comments made for the public hearing. **On a motion made by Councilmember Woolstencroft, seconded by Councilmember Foster, it was resolved to close the public hearing for Ordinance 2021-12-01, Section 617 Public Lake Tracts. All in favor; motion carried.**

b. **Council Deliberation:**

**On a motion made by Councilmember McCarthy, seconded by Councilmember Woolstencroft, it was resolved to approve Ordinance 2021-12-01, Section 617 Public Lake Tracts. All in favor; motion carried.**

- c. **Approve Resolution 2022-03, Approving Summary Publication:** The Council authorized Andy Gonyou to proceed with a change in publication to include *Section 617.370.12a* only. No action was taken to approve Resolution 2022-03.

**C. Fee Schedule 2022**

- a. **Review Proposed Amendments:** Mayor Wingfield confirmed that the state surcharge of \$1.59 is per quarter. Councilmember McCarthy requested that the fee schedule be amended to reflect the quarterly state surcharge.

Mayor Wingfield confirmed that the resident kayak fee will remain at \$30.

Mayor Wingfield noted that the new water meters will reduce work for city staff, particularly during the billing process. St. Anthony Village will provide the Council with a figure in June 2022, as a suggestive incentive for residents to go paperless.

*ACTION – Andy Gonyou will amend the 2022 fee schedule to include “quarterly as applicable” in parentheses next to Water and Sewer Related Fees.*

b. **Council Deliberation and Approval:**

**On a motion made by Councilmember McCarthy, seconded by Councilmember Fleck, it was resolved to approve the 2022 fee schedule as amended. All in favor; motion carried.**

**D. White Bear Township Public Works Inquiry**

- a. **Council Deliberation:** The Council authorized Steven Thatcher, the City's engineer, to incorporate the White Bear Township Public Works request into his replacement plans for the Wildwood Lift Station.

*ACTION – Steven Thatcher will keep the Council apprised of the cost to incorporate the White Bear Township Public Works request to include a standard size manhole casting and cover at the wet well and remove all the brackets and tubing from the wet well of the old bubbler system for lift station 3.*

**E. Hall's Marsh Sediment Investigation**

- a. **Council Deliberation:** Pace Analytical reported an unacceptable amount of materials from the tar seal coating of driveways in the coring samples of Hall's Marsh.

Mayor Wingfield reiterated two issues. Firstly, the Minnesota Department of Natural Resources (DNR) had mandated that the Rice Creek Watershed District (RCWD) include easements into Hall's Marsh; however, these easements are missing. Secondly, there are pollutants in Hall's Marsh.

Councilmember McCarthy noted an additional issue regarding the drawdown of Priebe Lake into Hall's Marsh. He expressed concern regarding reports of no sediment in Hall's Marsh as per the RCWD's engineer, HEI. Councilmember McCarthy reported that Steven Thatcher has photographic evidence of sediment from the RCWD's pipe in Hall's Marsh.

H. Alan Kantrud confirmed that RCWD will be providing a formal response to the city of Birchwood Village regarding the easements. Further action regarding the easements was deferred pending the receipt of the RCWD's formal response.

*ACTION – H. Alan Kantrud will forward the formal response from the RCWD regarding the easement upon receipt.*

The Council authorized Councilmember McCarthy to contact the Minnesota Pollution Control Agency (MPCA) for an interpretation of the data collected by Pace Analytical.

**On a motion made by Councilmember McCarthy, seconded by Mayor Wingfield, it was resolved to authorize Councilmember McCarthy to draft a letter in conjunction with H. Alan Kantrud to the RCWD and the city of White Bear Lake, and to provide a copy of the Pace Analytical report to the DNR, the MPCA, and the Washington County Commissioner, Stan Karwoski. All in favor; motion carried.**

**F. Council Workshop – February 15, 2022**

- a. **Schedule for Major Maintenance and Repairs:** Mayor Wingfield reported that the annual maintenance of the furnace was missed and recommended a working document to track and monitor major maintenance and repairs. The Council will review and make any additions to the schedule at the next Council workshop.
- b. **Guiding Principles of Procedure:** The Council will review and discuss the proposed Guiding Principles of Procedure for adoption at the next Council workshop.
- c. **Council Assignments:** Mayor Wingfield advised Councilmembers to send Andy Gonyou an e-mail regarding Council assignments for review at the next Council workshop. If no e-mails are received, the Council assignments will remain as they are and be included on the consent agenda for the next Council meeting.

**G. Councilmember Reports**

**a. Mayor Wingfield**

- i) **Backflow Law:** Mayor Wingfield recommended a backflow law to protect the city's water supply.

*ACTION – Councilmember McCarthy will work in conjunction with H. Alan Kantrud to revise the Municipal code of the city of Birchwood Village regarding the requirement of backflow valves, the standard for the backflow valves, and the liability to a homeowner in the event that a backflow valve is not installed.*

- ii) **League of Minnesota Cities Seminars:** The League of Minnesota Cities will be hosting a free webinar on February 1, 2022, from 11:00 a.m. to 12:00 p.m. regarding land use regulations for local officials. Mayor Wingfield encouraged the Council to attend.

Councilmember Foster will be attending a seminar.

**On a motion made by Mayor Wingfield, seconded by Councilmember McCarthy, it was resolved to authorize Councilmember Foster to attend a League of Minnesota Cities seminar at a cost of \$275. All in favor; motion carried.**

**b. Councilmember McCarthy**

- i) **60-Day Extensions for Zoning Applications:** H. Alan Kantrud suggested authorizing Andy Gonyou to issue a 60-day extension on all applications requiring planning agency and Council approval. He confirmed that the 60-day extension is included in the Minnesota statute for small cities like Birchwood Village that need to outsource their planning and scrutinization process.

**On a motion made by Mayor Wingfield, seconded by Councilmember McCarthy, it was resolved to adopt a policy that requires the City**

**Administrator, Andy Gonyou, to provide notice to the Council and submit at the next Council meeting that the city of Birchwood Village has demanded an extra 60 days on permit applications involving *Statute 15.99*, and to be placed on the consent agenda for Council action. All in favor; motion carried.**

**9. ADJOURNMENT**

**On a motion made by Councilmember Fleck, seconded by Councilmember McCarthy and carried unanimously, it was agreed that there was no further business of the Council to transact; the meeting was closed at 8:17 p.m. by Mayor Wingfield.**

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\_\_\_\_\_  
Mayor Mary Wingfield

\_\_\_\_\_  
City Administrator Andy Gonyou

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



For the Period : 1/11/2022 To 2/3/2022

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursed</u>	<u>Ending Balance</u>
General Fund	\$559,128.05	\$24,060.87	\$44,633.84	\$538,555.08
Road and Bridge	\$0.00	\$0.00	\$0.00	\$0.00
Other Federal Programs	\$0.00	\$0.00	\$0.00	\$0.00
Comp Plan Grant	(\$4,040.00)	\$4,040.00	\$0.00	\$0.00
Tree Canopy Care	\$0.00	\$0.00	\$0.00	\$0.00
Special Rev Projects	\$12,525.69	\$0.00	\$0.00	\$12,525.69
Spec Rev - Warm House	\$0.00	\$0.00	\$0.00	\$0.00
REIMBURSED CONTRACTED SERVICES	\$0.00	\$0.00	\$0.00	\$0.00
General Debt Service (Identify) (Inactive)	\$0.00	\$0.00	\$0.00	\$0.00
Birchwood In Re-hab Bond	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Re-hab Debt	\$0.00	\$0.00	\$0.00	\$0.00
CAPITAL PROJECT FUNDS (401 through 499)	\$0.00	\$0.00	\$0.00	\$0.00
General Capital Projects	\$0.00	\$0.00	\$0.00	\$0.00
Municipal State Aid Streets - Construction (Inactive)	\$0.00	\$0.00	\$0.00	\$0.00
Capital Project PW	\$123,615.31	\$0.00	\$0.00	\$123,615.31
Water	\$17,928.80	\$17,714.28	\$45,673.77	(\$10,030.69)
Sewer	\$114,050.28	\$18,291.20	\$7,570.98	\$124,770.50
Transit System	\$0.00	\$0.00	\$0.00	\$0.00
Sewer Infrastructure	\$0.00	\$0.00	\$0.00	\$0.00
Water Meter Upgrade Fees	(\$2,021.08)	\$0.00	\$296.23	(\$2,317.31)
American Rescue Act Proceeds	(\$46,665.31)	\$0.00	\$0.00	(\$46,665.31)
Engineering Services	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$774,521.74</b>	<b>\$64,106.35</b>	<b>\$98,174.82</b>	<b>\$740,453.27</b>

Fund Name: All Funds

Date Range: 01/11/2022 To 02/03/2022

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
01/12/2022	Companion Animal Control LLC	31730*	Animal Control Services - June and Dec 2021	N	Animal Control	100-41916-314-	\$ 160.00
	<b>Total For Check</b>	<b>31730</b>					<b>\$ 160.00</b>
01/12/2022	Metropolitan Council - Env. Service	31731*	Wastewater Service- January	N	Sewer Utility	605-43190-217-	\$ 5,105.97
	<b>Total For Check</b>	<b>31731</b>					<b>\$ 5,105.97</b>
01/12/2022	Minutes Solutions	31732*	Minutes	N	MISCELLANEOUS	100-49001-300-	\$ 200.00
	<b>Total For Check</b>	<b>31732</b>					<b>\$ 200.00</b>
01/12/2022	Dakota Supply Group	31733*	Subcontractor labor for installation of meters	N	Water Utility	601-43180-380-	\$ 19,333.00
	<b>Total For Check</b>	<b>31733</b>					<b>\$ 19,333.00</b>
01/12/2022	City of White Bear Lake	31734*	Quarterly Water Billing 9/21-12/15	N	Water Utility	601-43180-314-	\$ 5,079.18
	<b>Total For Check</b>	<b>31734</b>					<b>\$ 5,079.18</b>
01/12/2022	Tennis Sanitation, LLC	31735*	Recycling for Service Period: Nov-Dec 2021	N	Recycle	100-43300-314-	\$ 2,392.00
	<b>Total For Check</b>	<b>31735</b>					<b>\$ 2,392.00</b>
01/12/2022	MN Department of Revenue	EFT01122022A	MN State Tax eFiling - Q4 2021	N	Clerk - Treasurer	100-41401-115-	\$ 826.33
	<b>Total For Check</b>	<b>EFT01122022A</b>					<b>\$ 826.33</b>
01/19/2022	Brian Brady	31738	Overpayment on the final utility bill by Title Company 5 White Pine Lane	N	MISCELLANEOUS	100-49001-430-	\$ 73.45
	<b>Total For Check</b>	<b>31738</b>					<b>\$ 73.45</b>
01/19/2022	Merrick Inc.	31739	Dec Mailer	N	Newsletter	601-41960-350-	\$ 187.20
	<b>Total For Check</b>	<b>31739</b>					<b>\$ 187.20</b>
01/19/2022	Smith, Jackie	31740	Full size scans at OfficeMax for engineer	N	Office Operations Supplies	100-41911-200-	\$ 29.04
	<b>Total For Check</b>	<b>31740</b>					<b>\$ 29.04</b>
01/19/2022	League of MN Cities	31741*	LMC Membership Dues 2021 - 2022	N	City Training and Development	100-41914-433-	\$ 275.00

**Fund Name:** All Funds  
 Regular City Council Meeting - 02/08/2022  
**Date Range:** 01/11/2022 To 02/03/2022

<u>Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Description</u>	<u>Void</u>	<u>Account Name</u>	<u>F-A-O-P</u>	<u>Total</u>
		<b>Total For Check</b>	<b>31741</b>				<b>\$ 275.00</b>
01/19/2022	Chase Pelloquin	31742	Assessing Services - 2022	N	Assessing	100-41550-314-	\$ 5,420.00
		<b>Total For Check</b>	<b>31742</b>				<b>\$ 5,420.00</b>
01/19/2022	Gopher State One Call	31743*	Annual Facility Operator Fee	N	Utility Locates	605-42805-314-	\$ 50.00
		<b>Total For Check</b>	<b>31743</b>				<b>\$ 50.00</b>
01/19/2022	Lund, John	31744*	Tree Removal	N	Tree Removal	100-43135-314-	\$ 100.00
		<b>Total For Check</b>	<b>31744</b>				<b>\$ 100.00</b>
01/19/2022	White Bear Township	31745*	Contracted Services -Dec 2021	N	Sewer Utility	605-43190-314-	\$ 1,382.02
		<b>Total For Check</b>	<b>31745</b>				<b>\$ 1,382.02</b>
01/19/2022	Washington County Sheriff	31746*	2022 Code Red System	N	MISCELLANEOUS	100-49001-314-	\$ 68.38
		<b>Total For Check</b>	<b>31746</b>				<b>\$ 68.38</b>
01/19/2022	City of Roseville	31747*	IT charges January	N	General Government Buildings and Plant	100-41940-320-	\$ 386.13
		<b>Total For Check</b>	<b>31747</b>				<b>\$ 386.13</b>
01/19/2022	Toshiba Business Solutions	31748*	Printer Maintenance - 01/09-02/08	N	Office Operations Supplies	100-41911-314-	\$ 10.62
		<b>Total For Check</b>	<b>31748</b>				<b>\$ 10.62</b>
01/19/2022	Heating and Cooling Exxperts, LLC	31749*	Boiler Maintenance	N	General Government Buildings and Plant	100-41940-300-	\$ 964.00
		<b>Total For Check</b>	<b>31749</b>				<b>\$ 964.00</b>
01/19/2022	Payroll Period Ending 01/19/2022	31750	Payroll- Andy Gonyou- City Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,287.87
		<b>Total For Check</b>	<b>31750</b>				<b>\$ 1,287.87</b>
01/19/2022	Payroll Period Ending 01/19/2022	31751	Payroll for Jackie Smith- Deputy Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 453.05
		<b>Total For Check</b>	<b>31751</b>				<b>\$ 453.05</b>
01/20/2022	PERA	EFT012022A	Retirement funds- Andy Gonyou- City Administrator	N	Clerk - Treasurer	100-41401-121-	\$ 244.85
		<b>Total For Check</b>	<b>EFT012022A</b>				<b>\$ 244.85</b>
01/26/2022	Andrew Gonyou	31752*	Office Supplies Reimbursement	N	Office Operations Supplies	100-41911-200-	\$ 65.00

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		<b>Total For Check</b>	<b>31752</b>				<b>\$ 65.00</b>
01/26/2022	Mary Cahill	31753*	certified mail for IRS	N	Unallocated Expenditures	100-49201-430-	\$ 14.35
		<b>Total For Check</b>	<b>31753</b>				<b>\$ 14.35</b>
01/26/2022	AirFresh Industries, Inc.	31754*	Portable Restrooms-Jan Billing	N	Parks	100-45207-314-	\$ 162.50
		<b>Total For Check</b>	<b>31754</b>				<b>\$ 162.50</b>
01/26/2022	USS Minnesota One MT LLC	31755	Energy Charges - Dec	N	General Government Buildings and Plant	100-41940-380-	\$ 25.63
		31755			Sewer Utility	605-43190-380-	\$ 68.35
		31755				605-43190-380-	\$ 123.89
		<b>Total For Check</b>	<b>31755</b>				<b>\$ 217.87</b>
01/26/2022	Atakpu, Michelle	31756	Hall rental- escrow refund	N	Escrow Refunds	100-49250-810-8	\$ 100.00
		<b>Total For Check</b>	<b>31756</b>				<b>\$ 100.00</b>
01/31/2022	A T & T Mobility	EFT01222022A*	Water Meter 12/2/-1/1	N	Water Utility	601-43180-382-	\$ 54.10
		<b>Total For Check</b>	<b>EFT01222022A</b>				<b>\$ 54.10</b>
01/31/2022	Xcel Energy	EFT01312022A*	Street Lighting 12/3-01/01	N	Street Lighting	100-43160-380-	\$ 1,308.67
		<b>Total For Check</b>	<b>EFT01312022A</b>				<b>\$ 1,308.67</b>
02/01/2022	TSE, Inc. Work Account	31757*	Janitorial Services - 1/6/2022	N	General Government Buildings and Plant	100-41940-314-	\$ 25.00
		<b>Total For Check</b>	<b>31757</b>				<b>\$ 25.00</b>
02/01/2022	R Leeves Productions LLC	31758	Videography - Council Mtgs, 1/11/22	N	Cable Eqpmt and Service	100-41950-314-	\$ 82.50
		<b>Total For Check</b>	<b>31758</b>				<b>\$ 82.50</b>
02/01/2022	Thatcher Engineering, Inc	31759*	City Engineer - Permit Work, engineering services	N	Engineer Service	100-41650-300-	\$ 2,937.50
		31759*				100-41650-300-	\$ 807.50
		31759*				100-41650-300-	\$ 1,280.00
		31759*				100-41650-300-	\$ 5,025.00
		31759*				100-41650-300-	\$ 4,900.00
		31759*				100-41650-300-	\$ 340.00
		31759*				100-41650-300-	\$ 255.00
		31759*				100-41650-300-	\$ 3,280.00
		<b>Total For Check</b>	<b>31759</b>				<b>\$ 18,825.00</b>
02/01/2022	H.A. Kantrud, P.A.	31760	Attorney Services -Jan 2022	N	Legal Services	100-41601-300-	\$ 1,500.00

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		<b>Total For Check</b>	<b>31760</b>				<b>\$ 1,500.00</b>
02/01/2022	City of White Bear Lake Fire	31761*	Fire Srvc - Jan 2022	N	Fire	100-42201-314-	\$ 2,737.08
		<b>Total For Check</b>	<b>31761</b>				<b>\$ 2,737.08</b>
02/01/2022	Residents ACH returns	EFT01222021A	Utility payments made via ACH that were returned as uncollectable	N	Leaf Pick-Up	100-43110-430-	\$ 99.20
		EFT01222021A				100-43110-430-5	\$ 7.07
		EFT01222021A			MISCELLANEOUS	100-49001-430-	\$ 4.96
		EFT01222021A			Water Utility	601-43180-430-	\$ 142.10
		EFT01222021A			MISCELLANEOUS	601-49001-437-	\$ 7.19
		EFT01222021A			Sewer Utility	605-43190-430-	\$ 206.64
		EFT01222021A			Water Utility	620-43180-430-	\$ 74.06
		<b>Total For Check</b>	<b>EFT01222021A</b>				<b>\$ 541.22</b>
02/01/2022	Residents- ACH returns	EFT04102021A	Returned ACH payments from residents billing	N	MISCELLANEOUS	100-49001-430-	\$ 4.80
		EFT04102021A			Water Utility	601-43180-430-	\$ 140.49
		EFT04102021A			Sewer Utility	605-43190-430-	\$ 147.83
		EFT04102021A			Water Utility	620-43180-430-	\$ 49.37
		<b>Total For Check</b>	<b>EFT04102021A</b>				<b>\$ 342.49</b>
02/01/2022	Residents- returned ACH items	EFT07102021A	Utility payments made via ACH returned	N	Water Utility	601-43180-430-	\$ 144.75
		EFT07102021A			MISCELLANEOUS	601-49001-437-	\$ 7.17
		EFT07102021A			Sewer Utility	605-43190-430-	\$ 206.23
		EFT07102021A			Water Utility	620-43180-430-	\$ 73.89
		<b>Total For Check</b>	<b>EFT07102021A</b>				<b>\$ 432.04</b>
02/01/2022	Residents- returned ACH items	EFT10092021A	returned ACH items from residents utility billing	N	Water Utility	601-43180-430-	\$ 612.70
		EFT10092021A			MISCELLANEOUS	601-49001-437-	\$ 9.60
		EFT10092021A			Sewer Utility	605-43190-430-	\$ 276.00
		EFT10092021A			Water Utility	620-43180-430-	\$ 98.91
		<b>Total For Check</b>	<b>EFT10092021A</b>				<b>\$ 997.21</b>
02/03/2022	Payroll Period Ending 02/03/2022	31762	Jim Rydeen- Maintenance	N	Parks	100-45207-100-	\$ 1,764.45
		<b>Total For Check</b>	<b>31762</b>				<b>\$ 1,764.45</b>
02/03/2022	Payroll Period Ending 02/03/2022	31763	Jackie Smith, Deputy Clerk	N	Clerk - Treasurer	100-41401-100-	\$ 533.51
		<b>Total For Check</b>	<b>31763</b>				<b>\$ 533.51</b>

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02/03/2022	Payroll Period Ending 02/03/2022	31764	Andy Gonyou, City Administrator	N	Clerk - Treasurer	100-41401-100-	\$ 1,287.87
	<b>Total For Check</b>	<b>31764</b>					<b>\$ 1,287.87</b>
02/03/2022	Payroll Period Ending 02/03/2022	31765	Mary Cahill, Assistant Treasurer	N	Clerk - Treasurer	100-41401-100-	\$ 179.44
	<b>Total For Check</b>	<b>31765</b>					<b>\$ 179.44</b>
02/03/2022	Andrew Gonyou	31768	Zoom- 1/30-2/27	N	Unallocated Expenditures	100-49201-430-	\$ 16.09
	<b>Total For Check</b>	<b>31768</b>					<b>\$ 16.09</b>
02/03/2022	Gopher State One Call	31769	January 3 billable tickets	N	Utility Locates	605-42805-314-	\$ 4.05
	<b>Total For Check</b>	<b>31769</b>					<b>\$ 4.05</b>
02/03/2022	Manship Plumbing & Heating Inc	31770	Standby, locates, water system testing	N	Water Utility	601-43180-314-	\$ 600.00
		31770				601-43180-314-	\$ 120.00
		31770				601-43180-314-	\$ 240.00
	<b>Total For Check</b>	<b>31770</b>					<b>\$ 960.00</b>
02/03/2022	Dakota Supply Group	31771*	Subcontractor labor for installation of meters and return of AMI system	N	Water Utility	601-43180-380-	\$ 18,996.29
	<b>Total For Check</b>	<b>31771</b>					<b>\$ 18,996.29</b>
02/03/2022	C & E Wurzer Builders	31772*	Escrow Refund	N	Escrow Refunds	100-49250-810-8	\$ 3,000.00
	<b>Total For Check</b>	<b>31772</b>					<b>\$ 3,000.00</b>
<b>Total For Selected Checks</b>							<b>\$ 98,174.82</b>

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01/20/2022	Metropolitan Council	171735259*	Grant money	(01/20/2022) -	N	Federal Grants and Aids	100-33101-	\$ 960.00
						Federal Grants and Aids	204-33101-	\$ 4,040.00
								<b>\$ 5,000.00</b>
01/20/2022	Amy DeYoung	171735306	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Lind, alexander	171735307*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Leeves, Nicholas	171735308*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Hagan, Karen	171735309*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Woolstencroft, Kevin	171735310*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	McCann, William	171735311*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Cardozo, Donna	171735312*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	O'Hara, Michael	171735313*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Nietz, Arleen	171735314*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Arsenault, Samantha	171735315*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Lund, Kellie	171735316*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00

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								<b>\$ 20.00</b>
01/20/2022	Castillo, Elizabeth	171735317*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Jordan, Christopher	171735318*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Wyland, John	171735319*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Feist, Laura	171735320*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Clinch, J	171735321*	Dog License	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/20/2022	Goralski, Nicole	171735322*	Dog License and donation	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
						Contributions and Donations from Private Sources	100-36230-	\$ 2.00
								<b>\$ 22.00</b>
01/20/2022	Florence, Mitchell	171735323*	2 Dog Licenses	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 40.00
								<b>\$ 40.00</b>
01/20/2022	Morehead, Trevor	171735324*	2 Dog Licenses	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 40.00
								<b>\$ 40.00</b>
01/20/2022	Glander, Mark	171735325*	2 dog licenses	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 40.00
								<b>\$ 40.00</b>
01/20/2022	Homework Services LLC	171735326*	Building Permit	(01/20/2022) -	N	Building Permits	100-32211-	\$ 96.08
								<b>\$ 96.08</b>
01/20/2022	Steinhauser, Meryl	171735327*	Dog License and Utility Billing	(01/20/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
						Water Consumption	601-37111-	\$ 15.36
						Water Utility User Fee	601-37112-	\$ 21.00
						State Surcharge	601-37116-	\$ 2.43
						Penalties and Forfeited Discounts	601-37160-	\$ 3.91



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						Sewer Consumption	605-37211-	\$ 30.33
						Sewer Minimum Charge	605-37212-	\$ 36.00
						Penalties and Forfeited Discounts	605-37260-	\$ 3.32
								<b>\$ 132.35</b>
01/20/2022	Northern Heating	171735328*	Building Permit	(01/20/2022) -	N	Building Permits	100-32211-	\$ 157.25
								<b>\$ 157.25</b>
01/20/2022	Title Werks	171735329*	2018 Sewer Rehab Assessment	(01/20/2022) -	N	Miscellaneous	605-36140-	\$ 266.20
								<b>\$ 266.20</b>
01/20/2022	Kyle Hunt and Partners	171735330*	Building Permit- Variance fee	(01/20/2022) -	N	Building Permits	100-32211-	\$ 600.00
								<b>\$ 600.00</b>
01/20/2022	Northstar Recycling	171735331*	Money collected from recycling old water meters	(01/20/2022) -	N	Miscellaneous	601-36140-	\$ 3,056.14
								<b>\$ 3,056.14</b>
01/26/2022	Stanton, Terri	171735332*	Dog License	(01/27/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/26/2022	Foster, Mark	171735333*	Dog License	(01/27/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
01/26/2022	Strobel, David	171735334*	Zoning Permit 2-0122	(01/27/2022) -	N	Zoning Permits	100-32214-	\$ 30.00
								<b>\$ 30.00</b>
01/26/2022	Schaffhausen, Mary Jo	171735335*	2 Dog Licenses	(01/27/2022) -	N	Animal Licenses	100-32240-	\$ 40.00
								<b>\$ 40.00</b>
01/26/2022	Thompson, Rodney	171735336*	building permit	(01/27/2022) -	N	Building Permits	100-32211-	\$ 416.00
								<b>\$ 416.00</b>
01/26/2022	Hankins, Ryan	171735337*	Internet services refund	(01/27/2022) -	N	Miscellaneous	100-36140-	\$ 18.00
								<b>\$ 18.00</b>
01/26/2022	Ramsey/Washington Cable Commission	171735338*	Cable Redistribution Payment - Q4- 2021	(01/27/2022) -	N	Refund-Reimbursemnt-Dividend	100-36240-	\$ 347.87

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								<b>\$ 347.87</b>
01/26/2022	Kyle Hunt and Partners	171735339*	Escrow Deposit	(01/27/2022) -	N	Escrow Deposits	100-36245-8	\$ 3,000.00
								<b>\$ 3,000.00</b>
01/26/2022	Hoffman-Weber Construction	171735340*	Building Permit	(01/27/2022) -	N	Building Permits	100-32211-	\$ 456.81
						Escrow Deposits	100-36245-	\$ 3,000.00
								<b>\$ 3,456.81</b>
01/26/2022	Sherwood, Gregory	171735341*	Variance fee	(01/27/2022) -	N	Building Permits	100-32211-	\$ 600.00
								<b>\$ 600.00</b>
01/26/2022	Sherwood, Gregory	171735342*	Escrow Deposit	(01/27/2022) -	N	Escrow Deposits	100-36245-8	\$ 3,000.00
								<b>\$ 3,000.00</b>
01/26/2022	Thompson, Rodney	171735343*	Escrow Deposit	(01/27/2022) -	N	Escrow Deposits	100-36245-8	\$ 3,000.00
								<b>\$ 3,000.00</b>
01/26/2022	Muench, Travis	171735350*	Escrow Deposit	(01/26/2022) -	N	Escrow Deposits	100-36245-8	\$ 3,000.00
								<b>\$ 3,000.00</b>
01/31/2022	Residents - via St Anthony Village	171735351*	Utility Billing - January 2022	(01/31/2022) -	N	Leaf Collection	100-34408-	\$ 3,758.69
						Leaf Collection	100-34408-5	\$ 265.68
						Penalty - Late Water/Sewer	601-34160-	\$ 110.83
						Water Consumption	601-37111-	\$ 9,088.71
						Water Utility User Fee	601-37112-	\$ 4,391.11
						Special Water Charges	601-37115-	\$ 516.67
						State Surcharge	601-37116-	\$ 508.12
						Sewer Consumption	605-37211-	\$ 9,686.14
						Sewer Minimum Charge	605-37212-	\$ 8,186.91
						Penalties and Forfeited Discounts	605-37260-	\$ 82.30
								<b>\$ 36,595.16</b>
02/01/2022	Nelson, Heidi	171735344*	Monday Art classes at the Hall- annual dues	(02/01/2022) -	N	City/Town Hall Rent	100-34101-	\$ 10.00
								<b>\$ 10.00</b>

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02/01/2022	Moran, Cynthia	171735345*	Monday Art classes at the Hall- annual dues	(02/04/2022) -	N	City/Town Hall Rent	100-34101-	\$ 10.00
								<b>\$ 10.00</b>
02/01/2022	Schwichterberg, Bonnie	171735346*	Monday Art classes at the Hall- annual dues	(02/04/2022) -	N	City/Town Hall Rent	100-34101-	\$ 10.00
								<b>\$ 10.00</b>
02/01/2022	Lundell, Barb	171735347*	Monday Art classes at the Hall- annual dues	(02/04/2022) -	N	City/Town Hall Rent	100-34101-	\$ 10.00
								<b>\$ 10.00</b>
02/01/2022	Everson, Jean	171735348*	Monday Art classes at the Hall- annual dues	(02/04/2022) -	N	City/Town Hall Rent	100-34101-	\$ 10.00
								<b>\$ 10.00</b>
02/01/2022	Muench, Travis	171735349*	Building Permit # 2022-6	(02/04/2022) -	N	Building Permits	100-32211-	\$ 169.25
								<b>\$ 169.25</b>
02/01/2022	Fireside Home	171735352*	Building Permit	(02/01/2022) -	N	Building Permits	100-32211-	\$ 128.24
								<b>\$ 128.24</b>
02/03/2022	Cora Hankins	171735353*	Dog License	(02/04/2022) -	N	Animal Licenses	100-32240-	\$ 20.00
								<b>\$ 20.00</b>
02/03/2022	Sorenson, Luke	171735354*	2 Dog Licenses	(02/04/2022) -	N	Animal Licenses	100-32240-	\$ 40.00
								<b>\$ 40.00</b>
02/03/2022	League of Minnesota Cities	171735355*	Dividends reimbursement	(02/04/2022) -	N	Refund-Reimbursemnt-Dividend	100-36240-	\$ 385.00
								<b>\$ 385.00</b>
<b>Total for Selected Receipts</b>								<b>\$ 64,106.35</b>

As on 2/3/2022

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Total Revenues	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Other Financing Sources:</b>			
Total Other Financing Sources	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Disbursements:</b>			
Total Disbursements	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Other Financing Uses:</b>			
Total Other Financing Uses	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Beginning Cash Balance		12,525.69	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		<u>0.00</u>	
Cash Balance as of 02/03/2022		12,525.69	

As on 2/3/2022

Water

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Penalty - Late Water/Sewer	0.00	110.83	110.83
<b>Total Acct 341</b>	<b>0.00</b>	<b>110.83</b>	<b>110.83</b>
Miscellaneous	0.00	3,056.14	3,056.14
<b>Total Acct 361</b>	<b>0.00</b>	<b>3,056.14</b>	<b>3,056.14</b>
Water Consumption	0.00	9,104.07	9,104.07
Water Utility User Fee	0.00	4,412.11	4,412.11
Special Water Charges	0.00	516.67	516.67
State Surcharge	0.00	510.55	510.55
Penalties and Forfeited Discounts	0.00	3.91	3.91
<b>Total Acct 371</b>	<b>0.00</b>	<b>14,547.31</b>	<b>14,547.31</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>17,714.28</b>	<b>17,714.28</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Newsletter			
Printing and Binding (351 through 359)	0.00	187.20	(187.20)
<b>Total Acct 419</b>	<b>0.00</b>	<b>187.20</b>	<b>(187.20)</b>
Water Utility			
Contracted Services	0.00	6,999.18	(6,999.18)
Utility Services (381 through 389)	0.00	38,343.31	(38,343.31)
Utility Services: Water	0.00	108.20	(108.20)
Miscellaneous (431 through 499)	0.00	1,040.04	(1,040.04)
<b>Total Acct 431</b>	<b>0.00</b>	<b>46,490.73</b>	<b>(46,490.73)</b>
MISCELLANEOUS			
Fees	0.00	23.96	(23.96)
<b>Total Acct 490</b>	<b>0.00</b>	<b>23.96</b>	<b>(23.96)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>46,701.89</b>	<b>(46,701.89)</b>
<b>Other Financing Uses:</b>			
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Beginning Cash Balance</b>		<b>18,956.92</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>17,714.28</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>46,701.89</b>	
<b>Cash Balance as of 02/03/2022</b>		<b>(10,030.69)</b>	

As on 2/3/2022

Sewer

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Miscellaneous	0.00	266.20	266.20
<b>Total Acct 361</b>	<b>0.00</b>	<b>266.20</b>	<b>266.20</b>
Sewer Consumption	0.00	9,716.47	9,716.47
Sewer Minimum Charge	0.00	8,222.91	8,222.91
Penalties and Forfeited Discounts	0.00	85.62	85.62
<b>Total Acct 372</b>	<b>0.00</b>	<b>18,025.00</b>	<b>18,025.00</b>
<b>Total Revenues</b>	<b>0.00</b>	<b>18,291.20</b>	<b>18,291.20</b>
<b>Other Financing Sources:</b>			
<b>Total Other Financing Sources</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Disbursements:</b>			
Utility Locates			
Contracted Services	0.00	54.05	(54.05)
<b>Total Acct 428</b>	<b>0.00</b>	<b>54.05</b>	<b>(54.05)</b>
Sewer Utility			
Sewer - Wastewater Charge	0.00	5,105.97	(5,105.97)
Contracted Services	0.00	1,382.02	(1,382.02)
Utility Services (381 through 389)	0.00	192.24	(192.24)
Utility Services: Gas Utilities	0.00	57.81	(57.81)
Miscellaneous (431 through 499)	0.00	836.70	(836.70)
<b>Total Acct 431</b>	<b>0.00</b>	<b>7,574.74</b>	<b>(7,574.74)</b>
<b>Total Disbursements</b>	<b>0.00</b>	<b>7,628.79</b>	<b>(7,628.79)</b>
<b>Other Financing Uses:</b>			
<b>Total Other Financing Uses</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Beginning Cash Balance</b>		<b>114,108.09</b>	
<b>Total Receipts and Other Financing Sources</b>		<b>18,291.20</b>	
<b>Total Disbursements and Other Financing Uses</b>		<b>7,628.79</b>	
<b>Cash Balance as of 02/03/2022</b>		<b>124,770.50</b>	

As on 2/3/2022

Capital Project PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
<b>Receipts:</b>			
Total Revenues	0.00	0.00	0.00
<b>Other Financing Sources:</b>			
Total Other Financing Sources	0.00	0.00	0.00
<b>Disbursements:</b>			
Total Disbursements	0.00	0.00	0.00
<b>Other Financing Uses:</b>			
Total Other Financing Uses	0.00	0.00	0.00
Beginning Cash Balance		123,615.31	
Total Receipts and Other Financing Sources		0.00	
Total Disbursements and Other Financing Uses		0.00	
Cash Balance as of 02/03/2022		123,615.31	





**City of Birchwood Village  
INTAKE PROCEDURE FOR ZONING AND VARIANCE APPLICATIONS**

Upon proper submission, a variance or zoning application shall be heard at the next planning commission meeting.

After that meeting, the application will either:

- I. Be forwarded to the next city council meeting for approval or denial. (See #4 below).
- II. Or, if the planning commission requires more information, the matter shall be continued to its next meeting and also placed on the council consent agenda for a 60-day extension pursuant to Minn. Stat. 15.99
- III. The planning commission shall hear the matter at its second meeting. It must then be forwarded to the council for action after this second meeting.
- IV. The council shall hear the matter at its next council meeting. It is recommended that the matter be resolved by approval or denial at that time. To ensure compliance with time requirements of Minn. Stat. 15.99, it is strongly recommended that an application not be tabled. Under such circumstances, the council can consider waiving the subsequent variance application fee.



# MEMORANDUM

**DATE:** 02/04/2022

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**TO:** City Council  
**FROM:** Justin McCarthy, City Councilmember  
**SUBJECT:** Ordinance 2022-02-01



Hello,

In past meetings, members of the Council had proposed that we investigate ways to deal with situations that have periodically arisen within the City regarding houses that are in disrepair. In investigating the situation, we found our current code, section 404, provides sufficient code enforcement provisions to deal with these situations. The current code appears to be based upon an unknown version of the Uniform Maintenance Code. In investigating further, the current code, section 404, has several minor issues and was needing a refresh.

At our November meeting we discussed my proposal for modifications to Birchwood's Housing Code, section 404. It was decided to table that proposal to give the Council additional time to consider section 404 as it has not likely been amended in some time.

During the December City Council meeting, we discussed the maintenance code proposal and several comments were made by members of the Council. Those comments are addressed in the version of the code submitted with this memo for council vote and discussion.

Mayor Wingfield commented that since section 402 is comprehensive w/r/t trash pickup and is referenced under 404.090(1) we should omit items that overlap with 402. For example, the definitions related to garbage, rubbish, and refuse. I have removed these definitions from 404. Mayor Wingfield also noted that under 404.030, for the definition of infestation, you could make an argument that most homes are "infested" under the definition there. She suggested amending to "significant presence," "substantial presence" or "inundation." I have amended it to read "substantial presence." Mayor Wingfield also noted that she would delete all of 404.060(2) as 404.080 (1)(b) should suffice. She noted that many properties would likely be non-compliant. I have deleted 404.060(2) in response.

Councilmember Fleck noted that building code section 203 for the dangerous dwelling did not appear to be the right section number. Councilmember Fleck is correct. In response, I've removed the references to specific sections in the building code. In checking other section #'s, it appears most were out of date and referred to sections long since moved or changed. I believe the reference, generally, to the state building code suffices.

I would ask that the Council consider and vote on approving the language herein for a second reading and public comment period, to be held during next month's council meeting.

Thank you,  
Justin McCarthy  
City Councilmember

**ORDINANCE 2022-02-01**

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

**AN ORDINANCE AMENDING HOUSING STANDARDS IN THE CITY CODE**

The City Council of the City of Birchwood Village hereby ordains that Chapter 404 (Housing) of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

**SECTION 404. HOUSING**

404.010. TITLE. This chapter shall be known and may be cited and referred to as the Minimum Standards Housing Ordinance of the City.

404.020. APPLICATION. The provisions of this chapter shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation.

404.030. DEFINITIONS. Certain words or terms in this chapter are defined for the purpose hereof as follows: words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural number the singular; the words "dwelling", "dwelling unit #", or "premises" include the words "or any part thereof".

1. Approved. Shall mean approved by the Inspector of Buildings appointed to enforce the provisions of this chapter.

2. Half-Basement or lower level. A portion of a building located partly underground but having less than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

3. Basement. A portion of a building located partly or wholly underground and having one-half or more of its clear floor-to-ceiling height below the average grade of the adjoining ground.

4. Dwelling. Any building or structure, or part thereof, which is used or intended to be used for living or sleeping.

5. Dwelling Unit. A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping and cooking.

6. Extermination. The control or elimination of insects, rodents or other pests by eliminating their harborage, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating or trapping, by blocking their access to a dwelling, or by any other recognized and legal pest elimination methods approved by the City, pursuant to the appropriate Code.

~~7. First Story. That story of a dwelling at or next above the average grade of adjoining ground.~~

~~8.7. Garbage. Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.~~

~~9.8. Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.~~

~~10.9. Housing Appeals Board. Defined in 404.140.~~

~~11.10. Housing Inspector. Shall mean the Inspector of Buildings of the City of Birchwood Village, appointed to enforce the Code.~~

~~12.11. Infestation. The substantial presence, within or around a dwelling or in or near waste disposal containers, of any insects, rodents or other pests.~~

~~13. Light Housekeeping. The use of a room or rooms for combined living, sleeping and dining purposes by individuals or groups of persons having part of a dwelling such as stairs or halls in common but living independently of each other and doing their cooking upon the premises, whether in the same or in other units, as distinguished from a dwelling unit or apartment having normal kitchen and toilet facilities.~~

~~14. Light Housekeeping Unit. The room or rooms occupied for light housekeeping purposes by one individual or group of persons living independently of other such individuals or groups.~~

~~15.12. Occupant. Any person living, sleeping, cooking or eating in or having possession or use of a dwelling unit.~~

~~16.13. Owner. Any legally responsible person who alone or jointly or severally with others:~~

- ~~a. Has legal title to any dwelling with or without actual possession thereof; or~~
- ~~b. Has charge, care or control of any dwelling as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the owner shall be bound to comply with the provisions of this Code to the same extent as if he were the owner.~~

~~17.14. Person. Shall include any individual, firm, corporation, association or partnership.~~

~~18.15. Plumbing. Water pipes, mechanical garbage disposal units, waste pipes, water closets, sinks, installed dishwashers and clothes washing machines, lavatories, bathtubs, shower baths, catch basins, drains, vents and other similar supplied fixtures, including all connections to water or sewer lines.~~

~~19. Rooming Unit. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.~~

~~20. Rooming House. Any dwelling, or that part of any dwelling, containing one or more rooming units, in which space is let by the owner or operator.~~

~~21. Rubbish. Any inorganic waste such as tin cans, glass, paper, sweepings, etc. Stones, sod, earth, concrete, demolition waste, large automobile parts, large appliances, hazardous waste, tree trunk sections over four (4) inches in diameter, animal wastes except when adequately wrapped, or articles so heavy or bulky they cannot be easily lifted by one man shall not be considered rubbish.~~

~~22.16. Supplied. Paid for, arranged, furnished, or provided by or under control of the owner or operator.~~

~~23. Refuse. Any putrescible and nonputrescible solid wastes, except body wastes, and including garbage, rubbish, ashes, incinerator residue, and market and industrial solid wastes.~~

404.040. COMPLIANCE WITH REQUIREMENTS. No person shall occupy or let to another for occupancy any dwelling for the purpose of living, sleeping, cooking or eating therein which does not comply with the requirements of this chapter.

404.050. REQUIREMENTS FOR SANITATION.

1. Sink, Flush Water Closet, Lavatory Basin and Bathtub or Shower in dwellings. Refer to [the](#) State Building Code ~~1205 (d)~~.
2. Access to Bathrooms and Water Closets. Refer to [the](#) State Building Code ~~511~~.
3. Floors and Ventilation of Bathrooms and Water Closets. Refer to [the](#) State Building Code ~~510~~.
4. Piped Hot and Cold Running Water. Refer to [the](#) State Plumbing Code ~~4715~~.

404.060. REQUIREMENTS FOR LIGHT, VENTILATION AND HEATING.

1. Window Area and Ventilation. Refer to [the](#) State Building Code ~~1205 (b)~~.
2. ~~Screening.~~

~~a. When flies or other pests are prevalent, all openable windows as required by State Building Code 1205 (b) shall be effectively screened, and screen doors shall be maintained in good condition.~~

~~b. Every basement window used for ventilation, and every other opening to a building which might provide an entry for rodents, shall be supplied with a screen or other device as will effectively prevent their entrance.~~

~~3.2. Electrical Outlets. Refer to [the](#) State Electrical Code~~

~~4.3. Heating Facilities. Refer to [the](#) State Building Code ~~1212.~~~~

404.070. REQUIREMENTS FOR FLOOR SPACE AND GENERAL OCCUPANCY.

1. Floor Space. Refer to [the](#) State Building Code ~~1207.~~
2. Access to Sleeping Rooms. Refer to [the](#) State Building Code ~~1204.~~
3. Ceiling Height of Habitable Rooms. Refer to [the](#) State Building Code ~~1207.~~
4. Basement or Half-Basement Occupancy. Refer to [the](#) State Building Code ~~1205.~~

404.080. REQUIREMENTS FOR SAFE AND SANITARY MAINTENANCE OF DWELLINGS AND DWELLING UNITS.

1. Structural Soundness.
  - a. Members - Every foundation, door, outer wall, ceiling and roof shall be weather tight, water tight, and rodent proof, shall be capable of affording privacy, and shall be kept in good repair.



b. Openings - Every window, exterior door and basement hatchway or stairway shall be weather tight, water tight and rodent proof and shall be kept in good working condition and repair.

c. Stairs and Porches - Every inside and outside stair and handrail, and every porch and porch rails shall be so constructed as to safely support the maximum load that normal use may require and shall be kept in safe condition and good repair at all times. The Housing Inspector may require a handrail for each stair if deemed necessary.

d. Every stairway of more than 3 risers must have a handrail of height corresponding to State Statute requirements and be safely enclosed to handrail height.

2. Mechanical Soundness of Plumbing. All plumbing shall comply with the State Plumbing Code.

3. Exits. Every dwelling unit shall have a safe, unobstructed means of egress leading to safe and open space ground level, as required by the Minnesota Statutes and the Code of the City.

4. Effectiveness. Every supplied facility, piece of equipment, or utility which is required under this Section shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

404.090. REQUIREMENTS FOR CLEANLINESS AND GARBAGE AND TRASH DISPOSAL.

1. Owner or Owner-Occupant Responsibility. Every owner or owner occupant shall be responsible for the cleanliness of all parts of a dwelling and premises shared in common by more than one family and for provision of the following utilities and services, except where such responsibility is assumed by an operator or an occupant by agreement.

a. Extermination of insects, rodents or other pests; except that where only one dwelling unit is infested, the occupant of such infested unit shall be responsible for its extermination, unless the dwelling is not maintained in a reasonable ~~rat~~ rodent proof or insect proof condition.

b. Provisions of all other facilities, utilities, service or conditions required by this chapter and chapter 402.

2. Occupant Responsibility. Every occupant of a dwelling unit shall be responsible for keeping the occupied area and premises and all plumbing equipment and facilities in a clean, safe and sanitary condition at all times. Refuse shall be disposed of in accordance with chapter 402.

404.100. EMERGENCY DISCONTINUANCE OF SERVICE OR UTILITIES. No owner or occupant shall cause any service, facility, equipment or utility to be removed from or shut off from or discontinued in any occupied dwelling unit let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during temporary emergencies when discontinuance of service is approved by the Housing Inspector. Upon discontinuance of gas or electric service for cause by a public utility company or upon discontinuance of any municipal or other service for cause, the Housing Inspector shall be notified, and shall thereupon take immediate steps to have the responsible person correct conditions leading to such discontinuance of services. This section shall not be construed to prevent the cessation or discontinuance of any such service upon order of the Housing Inspector or any other authorized officials.

404.110. DANGEROUS DWELLINGS. Refer to State Building Code ~~203~~ for regulations on dangerous dwellings.

1. Declaration of Nuisance and Orders.

a. All dangerous dwellings or parts thereof within the terms of State Building Code ~~203~~ are hereby declared to be public nuisances, and shall be vacated and repaired or demolished in accordance with the provisions of Section 404.130.

b. In any case where a dangerous dwelling is 50 percent or more damaged or decayed, or deteriorated from its original structure, or where it cannot be repaired,

so as to comply with the terms of the State Building Code it shall be ordered vacated and demolished in accordance with the provisions of Section 404.130.

404.120. ENTRY AND INSPECTION OF DWELLINGS.

1. The Housing Inspector is hereby authorized, with the consent of the homeowner or if he has obtained a warrant or other court order authorizing the inspection, to make inspections to determine the condition of dwellings, dwelling units and premises located within the City in order to safeguard the health and safety of the occupants of such dwellings and of the general public. For this purpose and upon showing proper identification, the Housing Inspector is authorized to enter, examine and survey, at any reasonable hour, all dwellings, dwelling units and premises, and the owner, occupant or the person in charge thereof, shall give the Housing Inspector free access thereto for the purpose of such inspections.

2. Every occupant of a dwelling shall give the owner thereof of his agent or employee access to any part of such dwelling or its premises at any reasonable hour for the purpose of making any repairs or alterations which are necessary to effect compliance with the provisions of this section or any lawful order issued pursuant thereto.

404.130. ENFORCEMENT: SERVICES OF NOTICES AND ORDERS: HEARINGS.

1. Notices of Violation

a. Whenever the Housing Inspector determines that there has been a violation of any provision of this chapter, he shall give notice of such violation to the person or persons responsible therefore and order compliance with the Code as hereinafter provided. Such notice and order shall be in writing on an appropriate form and shall include:

(i) A list of the violations, with reference to the section of this chapter violated, and an order as to the remedial action required to effect compliance with this chapter.

(ii) Specification of a reasonable time for compliance.

(iii) Advice concerning the procedure for appeal. Such notice and order shall be served upon the owner, occupant or agent in person; provided, however, that the notice and order shall be deemed to be deemed to be properly served if such owner, occupant or agent is sent a copy thereof by registered mail to his last known address and a copy is posted in a conspicuous place in or on the dwelling affected.

b. Whenever the Housing Inspector determines that a dwelling is a dangerous dwelling as defined in State Building Code ~~203~~, he shall:

(i) Affix upon the door or entrance to such dwelling a printed placard declaring that such dwelling is unfit for human habitation and is ordered vacated. No person shall deface or remove such placard from any dwelling which has been condemned as unfit for human habitation and placarded as such. The Housing Inspector shall remove the placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.

(ii) Serve notice, as provided herein to the owner and occupant or lessee of any building found by him to be a dangerous dwelling within the standards set forth in Section 404.110 that: (1) the owner must vacate and repair or demolish said building in accordance with the terms of notice and this Section, and (2) the occupant or lessee must vacate said building or, with the consent of the owner, may have it repaired, in accordance with the notice and order, and remain in possession.

## 2. Hearings.

a. Any person affected by a notice and order issued in connection with the enforcement of this section may request and shall be granted a hearing on the matter before the Housing Appeals Board, provided such person shall file ~~in the Office of the Housing Inspector~~ with the City Clerk a written petition requesting the hearing and setting forth his name, address, telephone number and a brief statement of the grounds for the hearing or for the mitigation of the order. Such petition shall be filed within thirty (30) days of the date the notice and order are served. Upon receipt of the petition, the ~~Housing Inspector~~ City Clerk shall set a time and place for a hearing before the Housing Appeals Board and shall give the petitioner written notice thereof. Said hearing shall be held within thirty (30) days after a petition has been filed, and the petitioner shall be given an opportunity to be heard and to show cause why the notice and order should be modified or withdrawn. The failure of the petitioner or his representative to appear and to state his case at such hearing shall have the same effect as if no petition were filed.

b. After the hearing, the Housing Appeals Board by a majority vote, shall sustain, modify or withdraw the notice, depending on its findings as to whether the provisions of this section have been complied with, and the petitioner and the Housing Inspector shall be notified within ten days in writing of such findings.

c. The proceedings of the hearing, including the findings and decision of the Housing Appeals Board and the reasons therefore shall be summarized in writing and entered as a matter of public record ~~in the office of the Housing Inspector~~ with the City Clerk. Such record shall also include a copy of every notice and order issued in connection with the case.

3. Orders to Vacate.

a. Where a notice of violation and order to comply have been served pursuant to this section and, upon reinspection at the end of the time specified for compliance, and if no petition for a hearing has been filed, it is found that the violation or violations have not been remedied, the Housing Inspector may order the dwelling, or parts thereof affected by the continued violations, vacated in accordance with the following procedure:

(i) Dwellings shall be vacated within a reasonable time, not to exceed 60 days.

(ii) Vacated dwellings shall have all outer doors firmly locked and basement, cellar and first and second story windows barred or boarded to prevent entry.

(iii) Vacated dwellings shall not again be used for human habitation until written approval is secured from the Housing Inspector.

b. If a dwelling or part thereof is not vacated within the time specified in the order of vacation, the Inspector shall seek a court order in a court of competent jurisdiction for the vacation of such dwelling or part thereof.

4. Emergency Order. Whenever the Housing Inspector finds that an emergency exists which requires immediate action to protect the health and safety of the residents or of the public, he may issue an order so stating, and notwithstanding any other provisions of this section such order shall take effect and shall be complied with immediately. Upon petition to the Housing Appeals Board, petitioner shall be afforded a hearing pursuant to paragraph 2 of this section.

5. Vacation and Demolition.

a. If the owner, occupant, or lessee fails to comply with the order of the Housing Inspector or the action of the Housing Appeals Board after hearing, the Housing Inspector shall cause such dwelling or part thereof to be vacated and repaired or demolished as the facts may warrant and shall, with the assistance of the City of Birchwood Village Attorney, cause the costs of such repair or demolition to be charged against the land on which the building existed as a municipal lien or to be recovered in a suit of law against the owner.

b. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous dwelling as defined herein is immediately vacated and repaired or demolished, the Housing Inspector shall cause its immediate vacation and repair or demolition. The costs of such emergency repair or demolition shall be collected in the same manner as provided in Paragraph (a) of this subsection.

404.140. HOUSING APPEALS BOARD.



1. A Housing Appeals Board is hereby created as authorized by this Section.

a. Membership - The Board shall consist of five members to be selected by the City Council annually, or, in the absence of such selection by the City Council, -the City Council shall~~may~~ act as the Housing Appeals Board, and the City Clerk shall be ex-officio member of the Board and act as secretary and shall not be able to vote.

2. The Board shall elect a Chair~~person~~ ~~man~~ from its members, except where the Board is the City Council, in which case, the Chairperson shall be the Mayor. The Housing Appeals Board shall:

a. ~~Adopt rules and procedures consistent with this Section, elect its own officers, and Conduct all proceedings in accordance with the Open Meeting Laws and~~ keep a record of all proceedings, including the vote of each member on each case heard. No member of the Board shall take part in any hearing or determination in which he has directly or indirectly, any personal or financial interest. Three members of the Board in attendance at any meeting shall constitute a quorum.

b. Interpret the intent of the section in specific cases where, upon appeal, it clearly appears that, by reason of special conditions, undue hardship would result from literal application of any action of the section. Where such undue hardship is clearly demonstrated, the Board may permit a variance from the applicable section provided the dwelling will vary only a reasonable minimum from the literal provisions of the section and will comply generally with spirit and intent of the regulations as to sanitation, safety and rehabilitation. Any such variance shall be permitted only by the concurring vote of at least three members of the Board.

404.150. INTERPRETATION. The provisions of this chapter shall be held to be the minimum requirements to protect the health, safety, and welfare of the people of the City, and where this chapter imposes greater requirements than imposed by other provisions or law or ordinance, the provisions of this chapter shall control.

404.160. SEPARABILITY. Should any chapter, section or provision of this Code be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Code as a whole or any part

thereof other than the part so declared to be invalid.

**EFFECTIVE DATE:** This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8<sup>th</sup> day of March 2022.

# MEMORANDUM

**DATE:** 02/04/2022

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**TO:** City Council

**FROM:** Justin McCarthy, City Councilmember

**SUBJECT:** Ordinance 2022-02-02  
(Stormwater mitigation structure maintenance agreements)

---



Hello,

The Council previously had discussed the idea of requiring a maintenance agreement for homeowners who wish to utilize rain gardens and other such stormwater mitigation structures. The concern is that these rain gardens and bioswales need maintenance to maintain their ability to deal with stormwater runoff. Over time, if not maintained properly, the rain gardens and bioswales may allow for stormwater runoff to become a problem for neighbors or the City. This may defeat the purpose of granting a variance for impervious surface coverage.

During our discussions, it was decided that it might be best to modify section 302.050 to incorporate such agreements and requirements as well as to incorporate code to give the city the tools to enforce those agreements.

I have included proposed changes to section 302.050 at the end of this memo for a first reading. In addition, please find the following summaries of the changes for each section as well as some explanation for each change.

## **Section 302.050(1) Definitions**

- I added this section to properly define what stormwater management structures and practices constituted and gave examples of a ran garden, infiltration basin, and bioswale.

## **Section 302.050(2) Limitation**

- The changes in this section address some confusion that might result in that applicants might get the impression that by satisfying the requirements (a)–(k) that they would automatically get a variance. I wanted to clarify that the requirements (a)-(k) are the requirements to *apply* for the variance.

## **Section 302.050(2)(b)**

- **I have two questions for the Council.**
  - **First**, we have two competing interpretations of this section.
    - A first interpretation is that once the applicant exceeds 25% impervious surface coverage, the applicant must mitigate down to 0. That is, take 1.1 inches of rainwater runoff, multiply that by the total impervious area to get a volume of water, and then design structures to infiltrate that amount.
    - A second interpretation is that once the applicant exceeds 25% impervious surface coverage, the applicant must mitigate down to 25%. That is, take

1.1 inches of rainwater runoff, multiply that by the total impervious area over 25% to get a volume of water, then design structures to infiltrate that amount.

- The City should clarify this. I would like to have this discussion on what approach was meant by the code and what is preferable.
- **Second**, while the requirements state 1.1 inches, it does not provide a timeframe. I believe this is meant as 1.1 inches over 48 hours per the MPCA. We should discuss and specify a timeframe.

**Section 302.050(2)(d) and (2)(h)**

- These sections appear to overlap. I would recommend consolidating these sections. I would like to discuss which standards we would like to include.

**Section 302.050(j)**

- This section is amended to specify that a signed copy of the maintenance agreement is required and introduces several subsections laying out the requirements for the maintenance agreement.

**Section 302.050(j)(1)**

- This section states that the applicant must identify what standards are going to be used to judge the stormwater management structures and how the performance of the structures will be tested and judged to identify whether they are functioning correctly. For example, the applicant may state that the structures will infiltrate a certain volume of water over a certain period of time and will specify how that infiltration will be measured.

**Section 302.050(j)(2)**

- This section requires the applicant to identify the type of maintenance that will be performed and the intervals with which it will be performed. For example, for a pervious paver system, the applicant may specify that the system will be cleaned (and how it will be cleaned) every 6 months.

**Section 302.050(j)(3)**

- This is the actual agreement that the applicant will perform the required maintenance. Note that the language states that the applicant agrees not only to perform the identified maintenance, but also “any other work” to maintain the structure according to the identified performance standards. This requires them to perform the agreed to maintenance, but also any other maintenance necessary to keep the system at the identified performance standards. For example, replacement (which might not be considered maintenance) or repairs which are not part of the identified maintenance.

**Section 302.050(j)(4)**

- This is to ensure that the City always has a responsible party to contact.

**Section 302.050(j)(5) and Section 302.050(k)**

- This ensures that these maintenance agreements are enforceable against subsequent purchasers of the property

**Section 302.050(6)**

- This ensures that the City is allowed right of entry to inspect the structures/best management practices.

**Section 302.050(7)**

- This is an agreement that allows the City to perform the required work if the responsible party does not and to get paid by the landowner.
- One question that was raised by Mike Kramer of the planning commission was whether we need to add any clarification of how the City would handle the situation if the storm water treatment system was compromised by an outside event like a gas spill or run off from a fire that impacts the system from outside the property?

**Section 302.050(3)**

- While the above sets forth the standards for the contract with the City, this section gives the City the express authority to enforce the agreement.

**Section 302.050(4)**

- This authorizes the city to abate any issues with the stormwater management practices and structures, to bill the property owner, to collect that bill on their taxes, and to abate any threat to public safety, health, or property.

**Section 302.050(5)**

- This section sets for the reasonable notice timeframe as normally 45 days, unless in situations in which public safety, health, or property is endangered. In the latter case, the City Engineer and City Administrator may reduce or eliminate the notice requirement to protect the public safety; public health; or public or private property.

Thank you,  
Justin McCarthy  
City Councilmember

## ORDINANCE 2022-02-02

### CITY OF BIRCHWOOD VILLAGE WASHINGTON COUNTY, MINNESOTA

#### AN ORDINANCE AMENDING 302.050 IMPERVIOUS SURFACES IN THE CITY CODE

The City Council of the City of Birchwood Village hereby ordains that Chapter 302.050 of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

#### **Birchwood Village 302.050 Impervious Surfaces**

1. Definitions. As used in this section, stormwater management structures and best management practices include any surface water management system or practice that is designed, constructed, or implemented to control stormwater by collecting, conveying, storing, absorbing, inhibiting, treating, using, infiltrating, or reusing water. Example stormwater management structures include rain gardens, infiltration basins, and bioswales.

~~1.2.~~ Limitation. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area unless the applicant satisfies the following conditions to obtain a variance: ~~In order to be considered for apply for a variance, the applicant must meet the following requirements~~ submit the following:

- a. The applicant shall submit a stormwater management plan for the site that analyzes the proposed development including the area(s) of impervious surfaces, direction of runoff, proposed best management practices to manage runoff, and stormwater retention that the best management practices will achieve.
- b. The stormwater management plan shall include structures and/or best management practices for the mitigation of stormwater impacts on receiving waters in compliance with the City's Surface Water Management Plan, or as approved by the City Engineer, so that the site design includes stormwater management practices that control the stormwater runoff volumes, and the post-construction runoff volume shall be retained on site for 1.1 inches of runoff from impervious surfaces.
- c. The applicant shall utilize the most recent version of the Minnesota MIDS (Minimum Impact Design Standards) Calculator (available on the Minnesota Pollution Control Agency's website), the U.S. Environmental Protection Agency's National Stormwater Calculator, or another similar stormwater design calculator approved by the city to complete the plan and show that the proposed stormwater management practices meet the required infiltration standard. The applicant shall submit the calculator results to the City with the stormwater management plan.
- d. The applicant shall provide documentation that the proposed stormwater management methods meet the required standard, will be designed and installed consistent with the City's Surface Water Management Plan, NPDES stormwater standards, and the Minnesota Pollution Control Agency's Minnesota Stormwater Manual.

e. No pervious pavement system is permitted in the Shore Impact Zone. (The Shore Impact Zone is the land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback. The required structure setback from the OHWL in the City of Birchwood Village is 50 feet, and the Shore Impact Zone is 25 feet.)

f. Site design shall comply with the City's zoning code 302.055, and shall minimize changes in ground cover, loss of natural vegetation, and grade change as much as possible.

g. The base of installed infiltration structures or practices must be a minimum of three (3) feet above the established ground water table or the Ordinary High Water Level of White Bear Lake, whichever is higher.

h. The stormwater management practices shall be designed in accord with the Minnesota Stormwater Manual, American Concrete Pavement Association design criteria, Center for Watershed Protection, *Stormwater BMP Design Supplement for Cold Climates*, or other design guidance provided by the City.

i. The stormwater management plan shall include the applicant's description of how the practices shall be maintained to function as designed for the long-term. The City may inspect the installation of the stormwater management system at the site.

j. The applicant shall ~~include the~~ include a maintenance agreement signed by the property owner or owners plan and a maintenance schedule for the approved stormwater management practices and structures with the required permit application. The maintenance agreement must include:

1. An identification of the performance standards of the stormwater management structures or best management practices. ~~The applicant will identify the proposed testing protocol and standards to determine how the performance of the structures or best management practices are to be judged.~~
2. An identification of the type of maintenance and the maintenance intervals.
3. An agreement to perform the identified maintenance and any other repairs, replacement, or other necessary work to maintain the stormwater management structures or stormwater best management practices in a condition consistent with the performance standards for which they were originally designed.
4. An identification of the Responsible Party who is responsible for maintenance of the stormwater management best practices and structures. The applicant shall notify the City within 30 days of any changes to the responsible party.
5. An agreement that this agreement runs with the land and shall bind future successors in title.
6. An agreement to allow the City and its representatives the right-of-entry on the property for the purposes of inspecting the stormwater management structures and best management practices.
7. An agreement that should any stormwater management structures or best management practices fail to operate in a condition consistent with the performance standards for which they were originally designed or pose a threat to public safety, public health, or property as determined by the City Engineer, the City may, after

reasonable notice to the responsible party, perform any work necessary in order to bring the structures into a condition consistent with the performance standards for which they were originally designed or to eliminate any threat to public safety, public health, or property. The applicant agrees to pay the costs of any such work performed by the City.

k. The variance shall not be valid unless the applicant properly records the variance and the maintenance agreement at the property records at Washington County and a copy of the recording is properly returned to the City for verification.

3. The property owner is required to perform, or cause to be performed, maintenance as identified in the maintenance agreement, as well as any other additional work necessary to keep the stormwater management structures or best management practices in a condition consistent with the performance standards for which they were originally designed. This requirement shall run with the property and shall be binding upon all future property owners.

4. Should any stormwater management structure or best management practice fail to operate in a condition consistent with the performance standards for which they were originally designed or pose a threat to public safety, public health, or property as determined by the City Engineer, the City may, after reasonable notice to the responsible party, perform any work necessary in order to bring the stormwater management structure or best management practice into a condition consistent with the performance standards for which they were originally designed or to eliminate any threat to public safety, public health, or property. The costs of any such work may be assessed to the property owner and may be certified to Washington County for assessment against the property taxes of the property.

5. Reasonable Notice. For purposes of 302.050(1)(j)(7) and 302.050(3), reasonable notice normally means ~~30~~ 45 days. If, however, the City Engineer provides a written opinion that the condition of the Storm Water Management Structure is a danger to public safety, public health, or public or private property, and that 45 days notice would not be in the best interests of public safety; public health; or the protection of public or private property; the City Administrator shall reduce or eliminate this notice to the extent necessary to protect the public safety; public health; or public or private property.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8<sup>th</sup> day of March 2022.



# MEMORANDUM

DATE: 02/04/2022

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TO: City Council

FROM: Justin McCarthy, City Councilmember

SUBJECT: Ordinances 2022-02-03; 2022-02-04; 2022-02-05; 2022-02-06

(Section 304 of the City Code relating to Variances and Administrative Appeals)

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Dear Council,

With our recent experiences with variances applications, I felt that the City Code could be clearer when it comes to the process and requirements for obtaining a variance. My goal was to make it ridiculously clear what the process is to get a variance, what information is required, and what standards are used to judge whether a variance is granted or not.

While the current section 304 does contain all the necessary information for residents, the way it is worded and laid out may unintentionally confuse residents on what information is required, what the proper procedures are, and what the proper standards of decision are.

I will highlight only a few examples to demonstrate my point.

First, current section 304 blends both *Administrative Appeals* and *Variances*. These are two separate things. The administrative appeal is a process by which individuals who want to contest a ruling or other interpretation can do so. For example, a homeowner might use an Administrative Appeal to resolve differences of opinion with City staff on the meaning of an ordinance. In contrast, a variance is a homeowner asking for an exemption or modification to the ordinance for a specific piece of property.

Some individuals may read section 304 and incorrectly conclude that the City Council is only used for **appeals** of variance decisions of the Planning Commission (e.g., because the City Council is deemed as the Board of Adjustments **and Appeals**). This is of course incorrect.

Second, the application requirements, standards, and procedures are intermingled with each other. For example, 304.040 sets forth some required information in the application. However, section 304.030 also has required information in the application. In addition, certain sections of our code require additional information. For example, the impervious surface requirements of 302.050 require additional information. Someone looking at just 302.050 or 304.40 might submit an incomplete application.

Section 302.040(2) is titled "Criteria for Granting a Variance" but then talks about the planning commission and that they may provide a recommendation to the Council. It then defines what a variance is. It finally winds up with criteria for granting a variance. After all that, then 304.050 goes back and talks more about the Planning Commission procedures.

In addition to intermingling procedure, criteria, and definitions, there are other issues with 302.040(2). First, the discussion of the Planning Commission within the section labelled "criteria for granting a variance" as well as the earlier noted label of the Council as an appeal body may also erroneously suggest to a citizen who is not carefully reading the code that the Planning Commission decides variances and the Council is only involved on appeals. Second, it states "no variance may be granted that would allow any use that is prohibited within the City." This is literally what a variance is – granting

a use that is prohibited by law. Finally, there are additional practical difficulties that are not part of state law. MN Stat. 462.357 (6) states:

"Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties."

I think it would be a best practice to stick to State Law within our ordinances where possible and so I recommend removing the additional criteria and harmonizing this section with state law; however, I'd appreciate any thoughts on this.

My proposal is a complete replacement of section 304 and addition of a new section 310. Section 304 will be exclusively dedicated to variances and section 310 will be dedicated to administrative appeals. The intention is not to change how we operate, but simply to reorganize section 304 in a clearer manner to ensure universal understanding. A few notable items:

- Section 304.020 lays out all the requirements for a variance application. One addition is that it specifically requires that for each section of the code that an applicant is seeking a variance for, the applicant must separately enumerate that section AND demonstrate why it meets the criteria for granting a variance.
- For Section 310, the procedure for administrative appeals is much simpler. The appellant files an appeal within 30 days of the decision with the Clerk. The City Council then hears the appeal. Note that State Law requires that *"In any municipality in which the planning agency does not act as the board of adjustments and appeals, the board shall make no decision on an appeal or petition until the planning agency, if there is one, or a representative authorized by it has had reasonable opportunity, not to exceed 60 days, to review and report to the board of adjustments and appeals upon the appeal or petition."* MN Stat. 462.354(2). I interpret this to mean merely that the City Council needs to give the Planning Commission time to review and provide feedback; not that the Planning Commission has to give feedback. As such, I'm not including specific provisions for review by the Planning Commission. That is, the Planning Commission can take the matter up and issue an advisory opinion if it wants to of its own accord, but it is not required and not part of the defined procedure.

Finally, various other sections of City Code need to be updated. For example, 301.065 should be mostly stricken. It is superfluous and states the old legal standard (undue hardship). The reference to 304 should be updated in 302.055 to update the title.

I'm asking the Council discuss these changes and put it on next month's agenda for a second reading and public hearing.

Thank you,  
Justin McCarthy  
City Councilmember

**ORDINANCE 2022-02-03**

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

**AN ORDINANCE REPEALING CITY CODE 301.065**

The City Council of the City of Birchwood Village hereby ordains that section 301.065 of the Municipal Code of the City of Birchwood Village is hereby repealed:

~~**301.065 PROVISION FOR VARIANCES.** Where enforcement of the strict provisions of the Zoning Code would cause undue hardship a variance may be granted to allow deviation from the requirements, in accordance with Minnesota Statutes, Chapter 462. (See Section 304. VARIANCES AND APPEALS). See section 304, Variances.~~

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8<sup>th</sup> day of March 2022.

**ORDINANCE 2022-02-04**

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

**AN ORDINANCE AMENDING CITY CODE 302.055**

The City Council of the City of Birchwood Village hereby ordains that section 302.055 of the Municipal Code of the City of Birchwood Village is hereby amended to read:

**302.055 LAND DISTURBANCE ACTIVITY STANDARDS.**

...  
~~3. Variance. Any person who seeks a variance from any requirement of section 302.055 shall comply with the requirements of Chapter 304 (ZONING CODE: VARIANCES AND APPEALS).~~

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8<sup>th</sup> day of March 2022.

## ORDINANCE 2022-02-05

### CITY OF BIRCHWOOD VILLAGE WASHINGTON COUNTY, MINNESOTA

#### AN ORDINANCE REPEALING AND REPLACING CITY CODE 304

The City Council of the City of Birchwood Village hereby ordains that section 304 of the Municipal Code of the City of Birchwood Village is hereby repealed and replaced in its entirety with the following section:

#### **304. VARIANCES.**

**304.005 Board of Appeals.** The City Council is hereby established as the Board of Appeals (Board) and shall have the power to hear and decide variances under this section and appeals under section 310 in which it is alleged that there is an error in any administrative order, requirement, decision, or determination made in the interpretation or enforcement of the Zoning Code.

**304.010 Variances, Definition.** A variance is a modification or variation of a provision of the zoning code as applied to a specific piece of property or use.

**304.015 Procedure for Obtaining a Variance.** The owner or owners of land seeking a variance must file an application for a variance with the Clerk in accordance with the requirements of 304.020. Once the Clerk deems the application complete, the application will be heard by the Planning Commission in accordance with the requirements of section 304.025, which will issue an advisory report to the City Council on whether the variance should be granted. The City Council, acting as the Board of Adjustments and Appeals, will then issue a final determination on whether the variance is to be granted or denied in accordance with section 304.030.

**304.020 Variance Application Requirements.** Before consideration of a variance, an application for variance shall be made on forms provided by the City Clerk. The application shall be accompanied by the required information described below and by all required fees. Each application must include at a minimum:

- a. The legal description and address of parcel.
- b. Name, address, and phone number of applicant (and of the owner if owner is not the applicant).
- c. Plot plan drawn to scale. Elevation contour lines are required.
- d. Plan showing existing and proposed new and changed structures on the lot.
- e. Existing structures on adjacent lots.
- f. A certificate by a registered professional land surveyor verifying the location of all buildings, setbacks and building coverage.
- g. A certificate by a registered professional land surveyor certifying other facts that in the opinion of the City are necessary for evaluation of the application.
- h. A separate enumeration of each section of the code to which a variance is requested along with a demonstration that the criteria set forth in section 304.040 are met for each enumerated section.
- i. Evidence demonstrating compliance with regulations of other governmental units when required by provisions of this code, State Law, or regulations of other governmental units.

Non-limiting examples of government units which may have applicable regulations include the State of Minnesota, Rice Creek Watershed District, Minnesota Department of Natural Resources, White Bear Lake Conservation District, and the Minnesota Pollution Control Agency.

- j. Other documentation as applicable and as required by the City Code for the type of variance sought (see for example the impervious surface requirements of 302.050).

**304.025 Variance Hearing and Recommendation by the Planning Commission.** The Planning Commission is hereby established to hear and advise the Council on requests for variances. After the City Clerk determines that a variance application is complete and all fees have been paid, and any technical analysis by the City Planner and/or Engineer has been completed and a report issued, the Planning Commission shall conduct a public hearing in which the Planning Commission shall hear the oral and written views of interested persons. The Planning Commission shall make a recommendation, by majority vote, to the City Council on whether, in the opinion of the Planning Commission, the variances presented on the application should be granted or denied. The Planning Commission may recommend the grant of a variance subject to any conditions deemed reasonable by the Planning Commission.

**304.030 Final Decision.** Once the Planning Commission has had a reasonable opportunity to review and report to the City Council, the City Council shall decide on the application for variance by majority vote. Notice of the decision shall be mailed to the applicant. The City Council may impose conditions on the granting of the variance. When variances are denied, the City shall include explanation as to why the variance was denied. When a variance is granted, an explanation of any conditions imposed on the granting of the variance shall also be included. The Council shall maintain a record of its proceedings relative to the application for variances which shall include the minutes of its meetings and final order concerning the variance application. Where applicable, notice of the final order shall be sent to other government agencies as required by law.

**304.035 Revocation and Termination of Variances.** A violation of any condition set forth or required in granting a variance shall be a violation of this Code and automatically terminates the variance. A variance shall become null and void one year after it was granted, unless made use of within the year or such longer period as prescribed by the Council.

**304.040 Standards for Variances.** Variances may be granted when the applicant for the variance establishes:

1. That there are practical difficulties in complying with the zoning ordinance;
2. That the proposed structure or use is in harmony with the general purposes and intent of the ordinance; and
3. That the proposed structure or use is consistent with the City's comprehensive plan.

"Practical difficulties," as used in connection with the granting of a variance, means that i.) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; ii.) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and iii.) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

**304.045 Notice of Hearings.** Notice of Variance Hearings, both at the Planning commission and the City Council shall be given according to this section.

1. Notice of variance hearings shall be mailed not less than ten (10) days before the date of the hearing to the person who filed the application for variance, and to each owner of property situated wholly or partially within 200 feet of the property lines to which the variance relates.
3. No new notice need be given for any hearing which is continued to a specified future date.

**304.050 Time for Action.** A final decision shall be rendered within sixty (60) days from the date of the application unless the applicant has been notified within fourteen days (14) days that the application for variance is incomplete. The City Administrator is authorized to request additional time under Minnesota Stat. §15.99(f) as necessary.

**EFFECTIVE DATE:** This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8<sup>th</sup> day of March 2022.

**ORDINANCE 2022-02-06**

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

**AN ORDINANCE ADDING SECTION 310 TO THE CITY CODE**

The City Council of the City of Birchwood Village hereby ordains that section 310 of the Municipal Code of the City of Birchwood Village is hereby added:

**310 ADMINISTRATIVE APPEALS**

**310.010 Board of Appeals and Adjustments.** As stated in Section 304.005, the City Council shall serve as the Board of Appeals and Adjustments. These powers include hearing and deciding appeals in which it is alleged that there is an error in any administrative order, requirement, decision, or determination made by an administrative officer in the interpretation or enforcement of Chapters 200 and 300 of this code.

**310.015 Administrative Appeals.** A person who deems themselves aggrieved by an alleged error in any order, requirement, decision or determination (hereinafter, "administrative decision") made in the interpretation or enforcement of any provision of chapters 200 and 300 of this code, may appeal the order, requirement, decision, or determination to the Board of Appeals and Adjustments.

**310.020 Procedure for Appealing an Administrative Decision.** A person who wishes to appeal any order, requirement, decision, or determination made in the interpretation or enforcement of any provision of chapters 200 and 300 of this code may appeal by filing a written appeal with the City Clerk within 30 days after the date of such order, requirement, decision or determination. The appeal shall fully state the order to be appealed and the relevant facts of the matter.

**310.025 City Council Hearing.** Once the Planning Commission has had a reasonable opportunity to review and report to the City Council on the merits of the appeal, the City Council shall decide on the merits of the appeal. Notice of the decision shall be mailed to the applicant. The City shall include explanation as to why the appeal was approved or denied. The Council shall maintain a record of its proceedings relative to the appeal which shall include the minutes of its meetings and final order concerning the variance application. Where applicable, notice of the final order shall be sent to other government agencies such as the Minnesota Department of Natural Resources (DNR), as required by law.

**310.030 Notice of Hearings.** A notice of hearings for appeals of administrative decisions shall be given to the appellant and shall be published in the official newspaper once at least ten days before the day of the hearing.

**EFFECTIVE DATE:** This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8<sup>th</sup> day of March 2022.



# MEMORANDUM

**DATE:** 02/04/2022

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**TO:** City Council

**FROM:** Justin McCarthy, City Councilmember

**SUBJECT:** Ordinance 2022-02-07 (Irrigation backflow prevention devices)

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Dear Council,

In our December meeting we discussed the issue of backflow prevention devices on irrigation systems. There is a potential for contaminated water within irrigation systems to flow backwards into the City's potable water supply under certain conditions. This contaminates the drinking water for the City and potentially can cause significant costs for the City.

We discussed the issue in our December and January meetings and it was thought that for existing irrigation systems that the City would like to ensure that these existing systems have proper and functioning backflow prevention devices. However, it was noted that it would be difficult for the City to discover which homeowners had irrigation systems and further to discover which of those systems did not have adequate backflow prevention devices. These difficulties are further compounded by the difficulties in ensuring such backflow prevention devices are maintained and functioning.

It was proposed that a path forward would be to put the burden on the homeowners to ensure their own compliance by passing an ordinance assessing all costs that the City would incur should a backflow occur onto the homeowners. To encourage compliance, the City would send a letter to all homeowners warning them that should a backflow occur, that they would be liable to the City for those costs. Going forward, all new irrigation systems should have backflow prevention devices and be inspected by the City to ensure compliance.

I have taken a shot at a new section for the City's plumbing code, section 202.093, as well as removing a section of 309.64 that exempts irrigation systems from a building permit. I would ask that the Council discuss this, and schedule it for a second reading and public comment at our next meeting.

Thank you,  
Justin McCarthy  
City Councilmember

## ORDINANCE 2022-02-07

### CITY OF BIRCHWOOD VILLAGE WASHINGTON COUNTY, MINNESOTA

#### AN ORDINANCE AMENDING IRRIGATION SYSTEM STANDARDS IN THE CITY CODE

*Whenever any premises are connected to the City water system, there shall be maintained a complete physical separation between the City water supply system and a private water and/or irrigation system so that it is impossible to intentionally or unintentionally allow any water produced by a private system to be introduced in the supply line from the City system. Pursuant to Minnesota Administrative Rule, 4725.3350, the City requires that any such connections be outfitted with backflow prevention technology to protect the City water supply generally.*

The City Council of the City of Birchwood Village hereby ordains that Chapters 209 and 309 of the Municipal Code of the City of Birchwood Village is hereby amended to read as follows:

202.093 IRRIGATION SYSTEMS. A building permit is required for installation of a permanent in-ground irrigation system installed after April 1, 2022.

202.094 FUNCTIONAL BACKFLOW PREVENTION DEVICES REQUIRED. All irrigation systems, whether installed after April 1, 2022 or before April 1, 2022, are to have a functioning automatic backflow prevention device designed and installed to prevent backflow of irrigation water into the City water supply system. The valve shall be of a type approved by the building official and installed by permit and inspection. Per UPC, Sec. 605.3.1, dual check-valve backflow preventers shall comply with ASSE 1024 or CSA B64.6 605.4.

202.095 COSTS ASSESSABLE TO PROPERTY OWNER FOR DAMAGES CAUSED BY LACK OF FUNCTIONING BACKFLOW PREVENTION. In addition to the criminal consequences for the violation of the City Code, the property owner(s) of an irrigation system lacking a suitable functioning backflow prevention device is responsible for any and all costs incurred by the City resulting from contamination of the City water supply from a backflow originating from an irrigation system on their property. Said costs may be assessed to the property taxes of said property owner.

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309.64           **EXCEPTIONS.** No permit shall be required for the following:

- A. Approved surface landscaping work.
- B. Approved private sidewalks, street furnishings, posts and pillars.
- C. Snow removal activities.

~~D. Irrigation systems provided that the system does not connect directly to water mains in the ROW installed at the property owner's risk.~~

~~E.D.~~ Activities of the City of Birchwood Village.

If granted approval by the city, piercing or drilling a street or sidewalk/trail pavement for the purpose of exploratory examination or utility depth determination.

**EFFECTIVE DATE:** This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Adopted by the City of Birchwood Village City Council this 8<sup>th</sup> day of March 2022.

# MEMORANDUM

**DATE:** 02/04/2022

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**TO:** City Council  
**FROM:** Mary Wingfield, City Mayor  
**SUBJECT:** Agenda Item G, Subsection A

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Dear Council,

Please see below for notes regarding items placed on the February 8<sup>th</sup>, 2022 City Council Agenda under Agenda Item G, Subsection A.

**1. Front door.** Historical Designs recommends a production/ fiberglass door. Thermatru. \$3185, framed, stained, finished exterior/interior, ADA threshold with deadbolt.

The style is remarkably similar to original. Historic Design will install and put in historical (mock) hinges.

This is a solid, sturdy, long-lasting door. I have two in my house.

(See bid sheet attached.)

**2. Ladder stair to feistner park.** Needs to be built. Staff should be able to do (see Grotto railing project).

**3. Green ash behind city hall** is leaning and a detriment including adding debris on roof...Steve Dean will take down it and another box elder and dead snag for \$400. STS will assist in removal/chipping

**4. Street light inventory.** (Please review the lights listed below. We can make any decisions at our March mtg.)

Xcel provided a spreadsheet of our inventory. Xcel transitioned our lights from high pressure sodium to LED about four years ago. Despite the significant reduction in energy costs, Xcel reduced their charges by two percent. It makes sense to review the light placement to ensure their best use.

Our lights are generally disbursed equally around town, focusing on intersections. There are a few lights that are arguably not productive:

A. 520 hall. Light does not span over the street and is tilted away from the road. Trees were radically trimmed last summer. Usually this light is lost in the leaves and provides little illumination. The light placement does not illuminate an intersection or any significant landscape issue.

B. End of Lakewood lane. Is there any community value to this placement?

C. Two lights on eastern, westbound wildwood av at wildwood park. By comparison, the eastbound, western end has one light. Is there a reason for the extra light? Both these lights are higher intensity than all other lights in Birchwood. (Higher intensity is charged at a higher rate). Should we keep both lights? Should it/they be reduced to the same lumens as the rest of town?

D. East end of Lake ave. There are two other lights (presumably) paid for by the neighbors. Is there a reason/need for an extra light in this area?

5. Discussion of salt/sand for roadways. In the past, the city has used a 50/50 mix. In recent years, the plowing company has morphed to 100 percent salt, arguably almost all of this flows to the lake. Once in the Lake, it is essentially permanent. (Note, a relatively recent evaluation of WBL does not put in an "at risk" salt pollution level). Do we want to address this with the plowing company?

Thank you,  
Mary Wingfield  
City Mayor

**Gladstones Lumber Mart**

Address: 2475 Maplewood Dr

MAPLEWOOD, MN 55109

Phone: 6517748455

Fax: 6517789063



**Order**

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Order Number:

Date: 1/25/2022

Sales Rep: 03hud

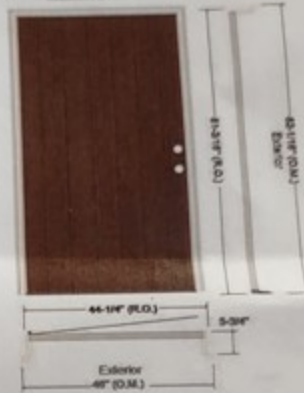


Image is viewed from Exterior!

**Vendor Information**

Name: Palmer-Donavin

Address: 1410 Heggen Street  
Hudson, WI 54016

Phone #: 800.652.1234

Fax #: 844.408.1183

Email: BIsales@palmerdonavin.com

**Specifications**

U.D. = 43-1/2" x 80-13/16"; R.O. = 44-1/4" x 81-3/16"

O.M. of Exterior Trim = 46" x 82-1/16"

Lead Time: Call for Lead Time

1) 3' 6" x 6' 8" CCR100 Classic Craft Mahogany Grain Fiberglass Door

Item Description	Qty	Price	Extended
3' 6" x 6' 8" CCR100 Classic Craft Mahogany Grain Fiberglass Door - Left Hand Inswing	1	2,123.00	\$2,123.00
2-3/8" Backset - Double Bore (2-1/8" Dia. Bore w/Standard 5-1/2" Spacing) w/Faceplate	1	20.00	\$20.00
Lockset Latch Prep w/Standard Strike Prep w/Deadbolt 9220 Schlage 1-1/8" x 2-3/4" Strike Prep			
Set of Spring - Oil Rubbed Bronze Hinges	1	70.00	\$70.00
Primed Dura-Frame - 5-3/4" Jamb w/Dura-Frame Brickmould Exterior Trim (Applied)	1	82.00	\$82.00
w/(1)Oil Rubbed Bronze Adjustable Security Strike Plate (for Lockset only)			
Bronze Compression Weatherstrip	1	0.00	\$0.00
Public Access - Bronze Sill	1	108.00	\$108.00
REFINISH: Stain Door Panel Exterior NEW EARTH, Paint Door Panel Interior 112 ALPINE (BRIGHT WHITE) ; Paint Interior of Frame/Rabbit only 112 ALPINE (BRIGHT WHITE)	1	782.00	\$782.00
<b>Item Total</b>			<b>\$3,185.00</b>
<b>(List Price for this Item = \$3,185.00 each)</b>			

**Order Total: \$3,185.00**

Version #: 1.22-0

Version Date: 11/8/2021