

**ORDINANCE NO. 2024-01-01
CITY OF BIRCHWOOD VILLAGE
WASHINGTON COUNTY, MINNESOTA
AN ORDINANCE AMENDING CHAPTER 701 OF THE
BIRCHWOOD CITY CODE REGARDING FEES**

Findings and Purpose:

The City of Birchwood Village has had a problem collecting certain fees from residents. These residents simply ignore bills they do not want to pay. The amounts owed negatively affects City operations and significantly increases overhead costs associated with providing services to City residents. It has been determined that the current methods of collecting these sums is not sufficient. The City has determined that three specific changes are necessary to ensure payment of services provided to residents. First, that payment for any outstanding charges should be made before the City issues new permits. Second, that late penalties should be added for extremely overdue invoices. Third, that overdue fees for services should be assessed to the property taxes of the person owing the fee to the City. This last provision is authorized by Minnesota Statute 366.012 which authorizes Townships to “certify to the county auditor of the county in which the recipient of the services owns real property, on or before October 15 for each year, any unpaid service charges which shall then be collected together with property taxes levied against the property.” Minnesota Statute 415.01 states that “a city has and may exercise within its limits any of the powers conferred by these chapters upon towns.” Read together, this empowers statutory cities to assess fees for unpaid services to a resident’s property taxes. In addition to enhancing the methods the City uses to collect fees, the City also finds that a method is needed for residents to challenge the imposition of fees or the amount of fees.

***The City Council of The City of Birchwood Village, Minnesota ordains:
Section 701 of the Birchwood Village City Code entitled “Fees” is amended to read:***

701. FEES

701.005. The City of Birchwood Village is authorized to impose fees, rates, or charges.

701.010. **Fee Schedule.** A schedule of fees shall be established by resolution of the City Council, and may be amended from time to time by the City Council.

701.020. **Fee Required.** Every person or organization applying for a permit or license or other action from the City shall pay a fee as indicated in the fee schedule.

701.030. **Payment of Fee.** The fee shall be paid at the time of application of the permit or license. The City will not process the permit or license application until the appropriate fee has been paid, nor will the City issue the permit or license until the fee has been paid.

701.035. **Payment of Outstanding Fees Required.** The City will not process, approve, or issue any building permit, variance, or conditional use permit if the applicant has not paid outstanding balances for previous permit applications, variance applications, or conditional use permit applications regardless of whether said application matured into a permit or variance or was abandoned by the applicant.

701.040. **Refunds.** Upon a request from an applicant rescinding their request for a permit or license, the City will refund one-half (½) of the fee for the permit or license if the applicant requests a refund within fifteen (15) days after the fee is paid and no action has been taken by the City on the request for the permit or license. The permit or license shall then be voided by the City Administrator or Clerk.

701.050. **Other Requirements.** Payment of the appropriate fee does not guarantee that a permit or license will be issued. An applicant for a permit or license must also comply with all other requirements of the City Code.

- 701.60. **Additional Fees.** The following fees shall be paid in addition to the original ~~application~~ fee, if the situation is applicable.
- 701.61. **Investigation Fee.** If work or activity for which a license or permit is required by the code has been commenced without first obtaining the permit or license, a special investigation shall be made by the City Administrator or their designee to determine the appropriate permits to be applied, and a report issued to the property owner before permits may be issued for the work. An investigation fee equal to and in addition to the required license or permit fees established by the City and listed in the fee schedule shall be collected at the time of application in addition to any required escrows.
- 701.62. **Additional Fee.** An additional fee, not to exceed actual expenses or the original amount of the fee, whichever is less, shall be paid if the City Council determines that the applicant has changed the project after submission of the initial application, or if it is necessary to conduct an excessive number of re-inspections of the project in order to ensure compliance with the City Code or the terms of the permit or license.
- 701.63. **Penalties Late Charge.** Any amounts due to the City, if not paid within sixty (60) days of the mailing date of the invoice by the City, will be assessed a one-time five percent (5%) late charge. Payment ~~if~~ of any late fee or additional fees shall be in addition to any fines that may be imposed for violation of the City Code.
- 701.70. Certification to Property Taxes.** On October 15th of every year, any outstanding amounts due for City provided services where at least ninety (90) days has elapsed since the mailing date of the invoice by the City, shall be applied as a special assessment

against any property owned by the person owing the fee and shall be certified the same to the County Auditor for collection in the same manner as taxes and special assessments are certified and collected in accordance with Minnesota Statutes 366.012 and 415.01. The assessed fees shall include any late charges already accrued.

701.71 **Notice Required.** A charge may be certified to the auditor only if, on or before September 15, the City has given written notice to the property owner of its intention to certify the charge to the auditor.

701.80 **Appeal to the City Council.** A person or entity owing a fee for city services who disputes the charges, or the amount of the charges, may by written notice, appeal the charges or amount of the charges to the City Council. Such appeal will be heard by the City Council.

701.081 **Timeframe for Filing Appeal.** Appeals must be filed within 30 days of the mailing date of the invoice for such charges, or within 60 days of enactment of this ordinance for existing charges outstanding at the time of enactment of this ordinance.

701.082 **Late Charges and Certification Efforts While Appeal is Pending.** When determining whether to apply late fees or whether to certify the amounts to the County Auditor, the time between when the appeal is received by the City and the time when a decision is mailed is not counted.

701.083 **Hearing.** The hearing will be noticed to the person or entity and the hearing will provide the person or entity an opportunity to address the City Council.

701.084 **Council Decision.** Once a decision has been made, a letter explaining the decision will be mailed to the person or entity by the City. The decision by the City Council will be

deemed final and non-appeal-able except to a court of law of competent jurisdiction.

701.90

Notice on Invoices. Invoices from the City should contain a notice of the late penalties provided under this section, the certification requirements provided under this section, as well as the right to appeal under this section. The failure of the City to provide such notice shall not affect the rights of the City to collect late penalties or certify the fees to taxes of a property owner.

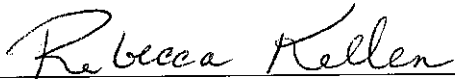
This ordinance becomes effective from and after its passage and publication.

Passed by the City Council of the City of Birchwood Village this 13th day of February, 2024.



Mayor, Margaret Ford

Attested:



City Clerk, Rebecca Kellen

