



AGENDA OF THE PLANNING  
COMMISSION  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
September 27, 2018  
7:00 P.M.

**CALL TO ORDER**

**APPROVE AGENDA**

**REGULAR AGENDA**

- A. Review/Approve June 28, 2018 Meeting Minutes\* (p. 2)
- B. Review/Approve July 26, 2018 Meeting Minutes\* (pp. 3-4)
- C. Review/Approve August 23, 2018 Meeting Minutes\* (pp. 5-6)
- D. Discuss Amending Permit Requirements (203.040)\* (pp. 7-8)
- E. Consider Building Permit Escrow Fees / Ordinance Amendments for Damages to Public Property\* (pp. 9-14)

**ADJOURN**

\* Denotes items that have supporting documentation provided

**CITY OF BIRCHWOOD VILLAGE  
PLANNING COMMISSION MEETING  
June 28, 2018**

**MINUTES**

**COMMISSIONERS PRESENT:** Chair Doug Danks, Vice Chair John Lund, John Winters, Randy Felt. **Absent:** Jozsef Hegedus.

**OTHERS PRESENT:** None.

Chair Doug Danks called the meeting to order at 7:09 p.m.

**APPROVE AGENDA:** John Lund motioned to approve the agenda. Randy Felt seconded. Motion passed.

**REGULAR AGENDA**

**A. Review/Approve April 26, 2018 Meeting Minutes.**

Randy Felt motioned to approve April 26<sup>th</sup> meeting minutes. John Lund seconded. Motion passed.

**B. Review/Approve May 24, 2018 Meeting Minutes.**

John Lund motioned to approve May 24<sup>th</sup> meeting minutes. John Winters seconded. Motion passed.

**C. Consider Building Permit Escrow Fees / Ordinance Amendments for Damages to Public Property.**

Randy Felt motioned to table. John Winters seconded. Motion passed.  
Ask Tobin to provide examples of past damage.

**D. Discuss City Council Response to Commission Recommendations**

John Lund motioned to table. John Winters seconded. Motion passed.

**E. Discuss 2040 Comp Plan Update**

Discussion only.

**ADJOURN**

**MOTION WAS MADE BY COMMISSIONER LUND AND SECONDED BY COMMISSIONER FELT TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 7:44 P.M.**

**CITY OF BIRCHWOOD VILLAGE  
PLANNING COMMISSION MEETING  
July 26, 2018**

**MINUTES**

**COMMISSIONERS PRESENT:** Chair Doug Danks, Vice Chair John Lund, John Winters, Randy Felt. **Absent:** Jozsef Hegedus.

**OTHERS PRESENT:** City Administrator Tobin Lay, City Attorney Alan Kantrud, Al Mitchell.

Chair Doug Danks called the meeting to order at 7:03 p.m.

**APPROVE AGENDA:** John Winters motioned to approve the agenda. Randy Felt seconded. Motion passed.

**REGULAR AGENDA**

**A. Review/Approve June 28, 2018 Meeting Minutes**

Strike. Minutes were not available.

**B. Discuss Amending Non-Conforming Uses (Sections 300.020.34 & 301.050)**

Recommend to the City Council- continue to maintain existing 301.050 Non-Conforming Use Language with the following revisions

1. Strike paragraph 3 except for the exception and replace with Minnesota Statute 462.357 subdivision 1E.
2. Revise paragraph 6 – Strike the language “shall be abandoned or” and replace with the word “is”. Lund motioned. John Winter seconded. Motion carried.
3. Recommend adopting the definition contained on page 5, 300.020.34. Lund motioned. Winter seconded. Motion passed.

**C. Discuss Amending Zoning Code Variances and Appeals (Section 304.040)**

1. Suggest revise 304.010 to read – the Planning Commission is hereby established to hear and advise the Council on requests for variance from the literal provisions of the Zoning Code.
2. Strike number 2.
3. Strike 304.040. John Lund motioned. Randy Felt seconded. Motion carried.
4. Suggest revise 304.050 to read Hearing and Recommendation by the Commission within sixty days after the City determines that a variance petition is complete and all required fees and information including plans, drawings and surveys have been received. The Commission shall conduct a public hearing and after hearing the oral and written views of all interested persons, the Commission shall make its recommendation by a majority vote at the same meeting or at a specified future meeting. Lund motioned. Randy Felt seconded. Motion passed.
5. Suggest revision 304.060
  1. Strike Section 2
  2. Revise Section 3-replace the word Board with Commission. Randy Felt motioned. John Lund seconded. Motion passed.

6. Suggest revision 304.070. Strike and Appeals. Lund motioned. Winter seconded. Motion carries.

**D. Discuss 2040 Comp Plan Draft**

Tabled.

**E. Discuss Special Event Permitting Ordinance**

Tabled.

**F. Consider Building Permit Escrow Fees / Ordinance Amendments for Damages to Public Property**

Recommend language in first paragraph “an escrow amount may be required not to exceed the amounts listed at the time, application fees and application is received by the City. John Lund motioned. Randy Felt seconded. Motion passed.

**ADJOURN**

**MOTION WAS MADE BY COMMISSIONER WINTERS AND SECONDED BY COMMISSIONER LUND TO ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 9:18 P.M.**

## CITY OF BIRCHWOOD VILLAGE PLANNING COMMISSION MEETING August 23, 2018

### MINUTES

**COMMISSIONERS PRESENT:** Chair Doug Danks, Vice Chair John Lund, John Winters. **Absent:** Randy Felt, Jozsef Hegedus.

**OTHERS PRESENT:** City Administrator Tobin Lay, Andy Sorenson.

Chair Doug Danks called the meeting to order at 7:05 p.m.

**APPROVE AGENDA:** John Lund motioned to approve the agenda. John Winters seconded. Motion passed.

### **REGULAR AGENDA**

**A. Review/Approve June 28, 2018 Meeting Minutes**

Strike. Minutes were not available.

**B. Review/Approve July 26, 2018 Meeting Minutes**

Strike. Minutes were not available.

**C. Discuss Amending Non-Conforming Uses (Sections 300.020.34 & 301.050)**

Revise the language for 300.020.34, motion to strike the last sentence of non-conforming pre-existing structure or use definition.

Section 301.050 Non Conforming Uses, Beginning with Section 1 first sentence strike Use inserting Pre-Existing Structure. Section 3 striking "or use" at the beginning of the first sentence. Section 4 inserting Pre-Existing Non-Conforming in front of Structure and Striking that represent a Non-Conforming use. Section 5 inserting Pre-Existing Non-Conforming in front of structure and striking representing a Non-Conforming Use. Section 6 Inserting Pre-Existing between Any and Non-Conforming

Motion was made by John Winters., seconded by John Lund. Motion carried.

**D. Discuss Amending Zoning Code Variances and Appeals (Section 304.040)**

Revise language for Zoning Code 304, pp8-11. Page 9 Section 2 Striking acting as a board of Appeals and Adjustments and inserting after May issue recommendations for Variances to the City Council.

John Winters motioned, John Lund seconded. Motion carried.

**E. Discuss 2040 Comp Plan Draft**

Asked for recommendation from Commissioners to be sent within one week.

**F. Discuss Amending Impervious Surface Definition (300.020.23)**

Revise Section 2 as follows: Insert A between consider and pervious. Insert surface percentage approved between pervious and by. John Lund motioned, John Winters seconded. Motion passed.

**G. Discuss Amending Permit Requirements (203.040)**

Motion to table. John Winters motioned. John Lund seconded. Motion passed.

**H. Consider Building Permit Escrow Fees / Ordinance Amendments for Damages to Public Property**

Discussed only. Doug Danks will discuss this with Council at next Council meeting.

**ADJOURN**

**MOTION WAS MADE BY COMMISSIONER WINTERS AND SECONDED BY COMMISSIONER LUND TO  
ADJOURN THE MEETING. ALL AYES. MOTION PASSED. MEETING ADJOURNED AT 8:18 P.M.**

# MEMORANDUM



**Birchwood Village**

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**TO:** Birchwood Planning Commission  
**FROM:** Tobin Lay, City Administrator  
**SUBJECT:** Permit Requirements

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Dear Commissioners,

It has been brought to my attention that the language of 203.040 is overbroad for what it requires a permit. As written, almost any work would require a permit, even painting. The State building code is not nearly so broad and there are no inspection guidelines for many of the jobs that would fall under the current reading of Birchwood's code.

Councilmember LaFoy requested and City Council Members agreed to have the Commission review 203.040 (enclosed) and make recommendations for appropriate amendments. These amendments should narrow what jobs require a permit while making sure appropriate jobs are covered.

**Request/Recommendation**

City Council requests Commissioners:

- 1) Review and make recommendations for amendments to Section 203.040 Permit Requirements.

Thanks!

Regards,  
Tobin Lay

203.040. PERMITS REQUIRED.

1. No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, convert, or demolish any building or structure in the City or cause the same to be done, without first obtaining from the city a separate building permit for each such building or structure.

2. It shall be unlawful for any person, partnership, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, convert, demolish, equip, use, occupy or maintain any building or structure in the City of Birchwood Village or cause the same to be done contrary to, or in violation of any of the provisions of this Code. Any person, partnership, firm or corporation violating any of the provisions of this Code shall be guilty of a misdemeanor, and shall be guilty of a separate offense for each and every day, or portion thereof, during which any violation of the provisions of this Code is committed, continued or permitted.

# MEMORANDUM



**Birchwood Village**

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**TO: Birchwood Planning Commission**  
**FROM: Tobin Lay, City Administrator**  
**SUBJECT: Building Permit Escrow Fees**

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Dear Commissioners,

This month Doug Danks attended the City Council and discussed Commissioner's views about creating escrow fees for residential improvements. The Council also heard Attorney Kantrud's opinion on this subject and on the Commission's position.

Among the solutions discussed was the idea of adding a strong statement to building permits of the applicant's responsibilities. The Council asked that the Planning Commission review this statement at its next meeting (enclosed). Please compare this statement to existing statement on page 2 of the current Building Permit Application (enclosed).

Another solution offered by Mayor Wingfield was to create an agreement that residents must enter before accessing city easements (enclosed).

I have enclosed the following items for you to aid in your continued discussion of this topic:

- Proposed Escrow Fee Schedule
- Proposed Easement Access Agreement ("Park Access Rental Agreement")
- Attorney Kantrud Advise Email
- Existing Building Permit Application

### **Request/Recommendation**

The City Council requests Commissioners:

- 1) Review and discuss the proposed remedies; and
- 2) Make recommendations to the City Council.

Thanks!

Regards,  
Tobin Lay

**PROPOSED ESCROW  
FEE SCHEDULE**

CITY OF BIRCHWOOD VILLAGE FEE SCHEDULE  
ADDITIONAL CHARGES FOR ESCROW AOUNTS/DAMAGE DEPOSITS

An escrow amount (damage deposit) will be required at the time of application fees and the application is received by the City. This charge will be used to cover additional staff time required and the cost of repair for any damage to city infrastructure or resources.

Subdivision	\$7000
Lot Split	n/a
Variance	\$3000
Conditional Use Permit (amended and new)	\$3000
Park and easement rental	\$1000
All other Land uses Including building, driveway, Grading, fence, retaining wall Permits	\$3000

Unused escrow and/or damage deposits will be returned to the Applicant upon completion of the project

The Applicant will be responsible for damages or costs in excess of the escrow or damage deposit, if applicable.

**PROPOSED EASEMENT  
ACCESS AGREEMENT**

CITY OF BIRCHWOOD VILLAGE EASEMENT AND PARK ACCESS RENTAL AGREEMENT

Renter:  
Address:  
Rental Fee Received: \$50.00/hour or \$500/day  
Damage Deposit Received: \$1000.00  
Deposit Returned:  
Daytime Phone:  
Date Key Issued:  
Key Issued To:  
Date Key Returned:

- Generally, no motorized vehicles are allowed on city easements and parks.
- Exceptions to the city ordinances will be considered for easement rental between October 15 and April 15.
- Easements are only rentable at the discretion of the City Administrator for the limited, special purpose of using mechanical equipment to gain access to owner’s real and/or personal property.
- Rental is limited to no more than five consecutive days and may not be renewed without permission from the city council.
- The Renter must sign this Rental Agreement in the space provided below. By doing so, the Renter agrees to adhere to the following requirements, unless special arrangements have been noted by staff on this Rental Agreement, and agrees to accept the consequences for their failure to do so.

A. Park hours. Renters are permitted to use the rented easement between the hours of 8:00 a.m. to 8:00 p.m.

B. Insurance. The Renter shall indemnify and hold the City harmless for any liability upon city property during the rental period.

C. Keys. Keys to the park lock(s) must be returned to City Hall the next business day immediately following the rental date. Renters shall be responsible for the cost of replacing lost or damaged keys, or re-keying the facilities. If preferred, Renters may return the key by depositing it in the drop box located in the entrance of City Hall.

D. Damage and deposit. There is a \$1000.00 deposit required in addition to the rental fee, which shall be returned only if City staff determines that all conditions of this Rental Agreement have been met. The Renter’s responsibility shall not be limited to the amount of the deposit. In the event of a violation of this Rental Agreement, the deposit may be retained to recover the administrative cost of recovering damages from the Renter, which shall be in addition to the deposit amount.

E. Adult. Renters must be at least eighteen years of age

F. Refunds. There are no refunds in part or in whole of rental fees, whether due to inclement weather or for any other reason.

Signature  
Print Name  
Date

**Tobin Lay**

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**From:** H. Alan <hakantrud@coyotelawyer.com>  
**Sent:** Sunday, September 23, 2018 10:26 PM  
**To:** Tobin Lay  
**Subject:** Re: Escrow Fee Schedule & Easement Usage Agreement

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I think, based on the discussion of the Council, that the PC should consider the following language:

"When a resident adjacent to a public tract seeks to gain access to their lot from a public tract for the purposes of maintenance of their property they shall request a Limited License from the City for that purpose, describing the purpose for said access. The request for said License shall include the necessity for said access, description of the work contemplated and be limited to that purpose. The request shall state the dates and times that said activity shall occur, and include the contract for services (if applicable) and provide for insurance in the event of damage to the public tract in the process of the activity involved. In the case of a home-owner who seeks to conduct the activity accessing the public tract, the City shall require a reasonable escrow based on the activity contemplated in the License. Said escrow shall be based on the reasonable estimate of the building inspector for the activity contemplated, and possible liability, and shall be refunded if no damage is observed once the licensed activity is concluded. If, in the opinion of the administrator or the building inspector, there is no opportunity for damages to the public tract in excess of \$250.00, no escrow shall be required from the homeowner or their contractor."

This seems to cover the issue... I'm not sure if you want to place a modest cost on the license...I would, say, 150 dollars, just to cover the consideration of the issue by you?

Just my thoughts.

Alan

On Thu, 20 Sep 2018 at 16:52, Tobin Lay <[Tobin.Lay@cityofbirchwood.com](mailto:Tobin.Lay@cityofbirchwood.com)> wrote:

Hello Alan,

Have you started anything on our assignment regarding the escrow fee schedule and easement usage agreement that the Council assigned us at the last meeting? The plan was to have the PC review at their next meeting and I'm putting their packet together now.

To jog your memory, here is the link to the meeting; relevant portion begins at 1 hr 20 min 45 sec:  
<http://provod.rwcable.com/Cablecast/Public/Show.aspx?ChannelID=21&ShowID=13465> Thanks!

Tobin Lay  
City Administrator-Clerk  
City of Birchwood Village, MN  
office: (651) 426-3403  
fax: (651) 426-7747  
email: [tobin.lay@cityofbirchwood.com](mailto:tobin.lay@cityofbirchwood.com)  
website: <http://www.cityofbirchwood.com/>

# EXISTING BUILDING PERMIT APPLICATION

## City of Birchwood Village BUILDING PERMIT APPLICATION

**Jack Kramer – Building Official**  
**10090 Oakgreen Avenue North**  
**Stillwater, MN 55082**  
**Office Ph. # 651-351-5051**  
**Pager # 651-847-9157**

**Two Sets of Plans Received:** \_\_\_\_\_  
**Date Issued:** \_\_\_\_\_  
**Permit No:** \_\_\_\_\_

**Project Address:** \_\_\_\_\_

**Permit Applicant:** \_\_\_\_\_ **Phone No:** \_\_\_\_\_

    ▪ **Contractor License No:** \_\_\_\_\_ **Expiration Date:** \_\_\_\_\_

**Homeowner:** \_\_\_\_\_ **Phone No:** \_\_\_\_\_

**Permit For:** \_\_\_\_\_ **Valuation \$:** \_\_\_\_\_

**Sq. Feet:** \_\_\_\_\_ **Length:** \_\_\_\_\_ **Width:** \_\_\_\_\_ **Height:** \_\_\_\_\_

**Legal of Site Location:** \_\_\_\_\_

**PID#:** \_\_\_\_\_

**Road Escrow:** \_\_\_\_\_

**Proximity to Wetlands or Lakeshore:** \_\_\_\_\_

**Setbacks: Front Yard** \_\_\_\_\_ **Rear Yard** \_\_\_\_\_ **Side/s Yard** \_\_\_\_\_

**Septic Inspector Approval:** \_\_\_\_\_ **Fee \$:** \_\_\_\_\_

**Description of Work (attach a site plan)** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Special Approvals	Required	Received	Not Required
Washington County			
Rice Creek Watershed			
City Council			
Building Commissioner			

Plan Check Fee	\$
City Fee	\$
Plan Reviewer Fee	\$
State Surcharge Fee	\$
Building Permit Fee	\$

**Notice:**

**\*The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.**

**\*The City will hold applicant responsible for any damage to public streets & roadways in the course of construction, landscape, excavating, filing and grading operations.**

**\*Any changes to this application will make the permit voidable unless amendments are approved by the City with prior consent. The applicant will provide (separate documents, surveys, and calculations) to the City with the building height, roof plane, grade plane, change in elevation, and impervious surface.**

**\*The applicant shall comply with all provisions of the State Building, Plumbing, Mechanical, Electrical, and Fire Codes, as well as all City Ordinances governing zoning and buildings. The State of Minnesota regulates all electrical work. The continued validity of this permit is contingent upon the applicant's compliance of all work done and materials used, with the plans and specifications herewith submitted, and with the applicable ordinances of the City.**

**\*Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building which will be built in conformance with such representation.**

Signature of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_